

## SECOND DIVISION

[ G.R. No. 222364, September 05, 2018 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.  
SANDIGANBAYAN (SECOND DIVISION) AND BLMMM VENTURES,  
INC., RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for certiorari<sup>[1]</sup> assailing the (1) Amended Resolution<sup>[2]</sup> dated 18 June 2015 and (2) Resolution<sup>[3]</sup> dated 11 January 2016 of the Sandiganbayan, Second Division, in Civil Case No. 0004 entitled "*Republic of the Philippines v. Andres Genito, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Ludivina Leonardo, Elesia Vargas, Raul Genito, Yoshio Kotake, Abundio P. Garrido, Asuncion Castillo, Norma Canonigo, Andres L. Genito III, "Nenita Genito" a.k.a. "Nita Genito" Legal Representative of Benito Genito.*"

#### The Facts

On 17 July 1987, petitioner Republic of the Philippines, through the Presidential Commission on Good Government (PCGG), filed with the Sandiganbayan a Complaint for Reversion, Reconveyance, Restitution, Accounting, and Damages, docketed as Civil Case No. 0004, against Andres Genito, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Ludivina Leonardo, Elesia Vargas, Raul Genito, Yoshio Kotake, Abundio P. Garrido, Asuncion Castillo, Norma Canonigo, Andres Genito III, and Rolando Ligon. Andres Genito, Jr. was a close associate of President Marcos while the other defendants were the alleged dummies, nominees, or agents who allegedly allowed themselves to be incorporators, directors, board members and/or stockholders of corporations beneficially held and/or controlled by President Marcos, Mrs. Imelda Marcos, and Andres Genito, Jr.

Petitioner seeks to recover two parcels of land in the names of Andres V. Genito, Jr. and Ludivina L. Genito located in Tandang Sora (Old Balara), Quezon City and covered by Transfer Certificate of Title (TCT) Nos. RT-94016 (266423)<sup>[4]</sup> and RT-94015 (266588).<sup>[5]</sup> Both of these TCTs were the subject of a Notice of *Lis Pendens*<sup>[6]</sup> dated 22 March 1989, directed to the Register of Deeds of Quezon City, by then PCGG Commissioner Augusto E. Villarin. The Notice of *Lis Pendens* in the Memorandum of Encumbrances in each TCT, however, refers to "Civil Case No. 0003."

On 24 October 1989, Commissioner Villarin executed a Sworn Statement addressed to the Register of Deeds of Quezon City informing the latter that the PCGG had lifted

the Notice of *Lis Pendens* dated 22 March 1989 specifically on TCT Nos. 266423 and 266588 of the Spouses Genito on the ground that there were other sufficient properties which may answer for a favorable judgment that may be rendered against the defendants.

Sometime in 1999, Asian Bank Corporation (Asian Bank) acquired in its name two certificates of title - TCT Nos. N-201383<sup>[7]</sup> and N-201384<sup>[8]</sup> covering the subject properties of Andres V. Genito, Jr. These new titles were again the subject of a Notice of *Lis Pendens*<sup>[9]</sup> dated 23 February 2001, directed to the Register of Deeds of Quezon City, issued by PCGG through Manuel P. Parras, Director - Legal Department. The Register of Deeds annotated a Notice of Sequestration in the Memorandum of Encumbrances at the back of Asian Bank's titles. The annotations in TCT Nos. N-201383 and N-201384 state:

P.E.-4174/T-201383 - MEMORANDUM - NOTICE OF SEQUESTRATION

Executed by Manuel P. Pan-as, Director Legal Dep. stating that the properties listed Nos. TCT No. 201383 and N-201384 in the name of the ASIANBANK CORP., are deemed sequestered and are the subject of the Civil Case No. 0004, entitled Republic of the Phils, vs. Andres Genito Jr. et al. and Asian Bank Corp., for Reconveyance, Reversion, Accounting, Restitution and Damages pending before the Sandiganbayan. Date of Instrument - Feb. 22, 2001 Date of Inscription - 2-27-2001<sup>[10]</sup>

P.E.-4174/T-201384 - MEMORANDUM - NOTICE OF SEQUESTRATION

Executed by Manuel P. Parras, Director Legal Dep. stating that the properties listed Nos. TCT No. 201383 and N-201384 in the name of the ASIANBANK CORP., are deemed sequestered and are the subject of the Civil Case No. 0004, entitled Republic of the Phils, vs. Andres Genito Jr. et al. and Asian Bank Corp., for Reconveyance, Reversion, Accounting, Restitution and Damages pending before the Sandiganbayan. Date of Instrument - Feb. 22, 2001 Date of Inscription - 2-27-2001<sup>[11]</sup>

On 5 February 2001, petitioner filed a Second Amended Complaint impleading Asian Bank as additional defendant. Petitioner also filed a Motion for Separate Trial dated 29 April 2002 since the claim against Asian Bank is distinct and separate from the original defendants.

On 25 June 2004, the Sandiganbayan granted petitioner's motion. Asian Bank questioned this grant before this Court and filed on 21 September 2005 a Petition<sup>[12]</sup> for Certiorari with Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, entitled "*Metropolitan Bank and Trust Company v. Hon. Sandoval*."<sup>[13]</sup> In a Decision<sup>[14]</sup> dated 18 February 2013, this Court held that the Sandiganbayan gravely abused its discretion in granting the Republic's motion for separate trial, but was correct in upholding its jurisdiction over the Republic's claim against Asian Bank. The Court stated that "the Sandiganbayan has original and exclusive jurisdiction not only over principal causes of action involving recovery of ill-gotten wealth, but also over all incidents arising from, incidental to, or related to such cases."<sup>[15]</sup> Thus, the Court declared that the Sandiganbayan has original exclusive jurisdiction over the amended complaint in

Civil Case No. 0004 as against Asian Bank/Metropolitan Banking and Trust Corporation (Metrobank).

On 1 March 2013, respondent BLMMM Ventures, Inc. (BVI) filed a Motion for Substitution of Party with Entry of Appearance. BVI used as basis the fact that on 8 June 2012, BVI purchased from Global Business Holdings, Inc. (GBHI) the subject two parcels of land located in Tandang Sora (Old Balara), Quezon City. GBHI's predecessors in interest over the parcels of land were Asian Bank and Metrobank. TCT Nos. 004-2013010452 and 004-2013010453 pertaining to the subject parcels of land were issued in the name of BVI.

On 12 March 2013, BVI filed a Motion to Dismiss citing as basis the Decision dated 19 April 2012<sup>[16]</sup> and Resolution dated 21 February 2013 of the Sandiganbayan dismissing Civil Case No. 0004. The Sandiganbayan declared that the monies and properties subject matter of the case were not ill-gotten and were probable fruits of purely private transactions in which the Republic took no part. Thus, since the Republic failed to establish its causes of action by the quantum of proof required, the Sandiganbayan dismissed the case.

Petitioner opposed the Motion to Dismiss and the Motion for Substitution of Party in its Comment/Opposition dated 26 March 2013.

On 30 September 2013, BVI filed a Motion to Cancel and/or Remove Annotation on its titles, TCT Nos. 004-2013010452 and 004-2013010453, which was carried over from the notice of sequestration found on Asian Bank's titles, TCT Nos. N-201383 and N-201384, involving the same properties, arguing that the annotation has absolutely no legal or factual basis since there was no order or writ of sequestration issued by the PCGG or the Sandiganbayan, and the notice of sequestration is void *ab initio*.

Petitioner filed a Comment/Opposition on 24 October 2013 asserting that the assets acquired by BVI are in *custodia legis*, and that BVI merely reiterated the same relief sought by its predecessors which has been denied twice.

In a Resolution dated 3 December 2013, the Sandiganbayan denied BVI's Motion for Substitution of Party filed on 1 March 2013 and Motion to Dismiss filed on 12 March 2013.

On 7 January 2014, BVI filed a motion for reconsideration.

In a Resolution dated 15 April 2015, the Sandiganbayan granted the motion for reconsideration and allowed BVI to substitute for Asian Bank or Metrobank as party defendant. The Sandiganbayan also cancelled and/or removed the Notice of Sequestration annotated under the Memorandum of Encumbrances on BVI's two transfer certificates of title - TCT Nos. 004-2013010452 and 004-2013010453.

Petitioner moved for partial reconsideration of the Resolution dated 15 April 2015 in so far as the court ordered the cancellation and/or removal of the notice of sequestration on the two transfer certificates of title registered under BVI. On 5 June 2015, BVI filed its Comment/Opposition.<sup>[17]</sup>

In an Amended Resolution dated 18 June 2015, the Sandiganbayan jointly resolved, in favor of BVI, the Motion to Cancel and/or Remove the Annotation and the Motion for Reconsideration filed by BVI on 30 September 2013 and 7 January 2014, respectively. The relevant portions of the Amended Resolution state:

Re: Motion to Cancel and/or Remove Annotation

Based on the foregoing incidents showing that BLMMM (BVI in this case) was recognized by the Supreme Court to substitute for Asian Bank or Metrobank, this Court can and should do no less by consequently allowing BLMMM to substitute for Asian Bank/Metrobank in order to instill some stability to the parties in the resolution of all incidents and issues in relation to Civil Case No. 0004. On this score, BLMMM now stands as party defendant who may ask affirmative relief or action from this Court. Its Motion for Reconsideration is thus GRANTED, and BLMMM Ventures, Inc. may substitute for Asian Bank in this case.<sup>[18]</sup>

Re: Motion to Cancel and/or Remove Annotation

x x x [I]n resolving whether or not to cancel and/or remove the said annotation, the so-called Notice of *Lis Pendens* issued by Director Parras must comply with the requirements provided by law on sequestration. x x x.

x x x x

An incisive scrutiny of the Notice of *Lis Pendens* issued by Director Parras reveals that the same suffers from fatal defects, and is therefore void x x x.

x x x x

x x x [I]t is therefore conclusive that the annotation found on the titles of BLMMM has no factual and legal basis and must consequently be removed and/or cancelled.

WHEREFORE, premises considered, the Court hereby:

1. GRANTS the Motion for Reconsideration filed by BLMMM Ventures, Inc. on January 7, 2014 and accordingly allows BLMMM Ventures, Inc. to substitute for Asian Bank or Metropolitan Banking and Trust Corporation as party defendant to this case; and
2. CANCELS AND/OR REMOVES the Notice of Sequestration annotated under the Memorandum of Encumbrances on TCT Nos. 004-2013010452 and 004-2013010453 registered under BLMMM Ventures, Inc. for lack of legal or factual basis.

SO ORDERED.<sup>[19]</sup>

Petitioner moved for partial reconsideration which was denied by the Sandiganbayan in a Resolution dated 11 January 2016.

Hence, this petition.

### **The Issue**

Whether or not the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the questioned resolutions holding that the notice issued by the PCGG and annotated on the two certificates of title in question was not a notice of *lis pendens* but a notice of sequestration, which must strictly comply with the requirements of the Constitution and the PCGG's own rules on sequestration.

### **The Court's Ruling**

The petition lacks merit.

Petitioner Republic contends that the Sandiganbayan incorrectly ruled that what was annotated on the certificates of title of Asian Bank (BVI's predecessor-in-interest) was a notice of sequestration and not a notice of *lis pendens*. Petitioner asserts that the Sandiganbayan restrictively focused on the words "deemed sequestered" as written in the body of the notice of *lis pendens* when the use of the phrase "deemed sequestered" merely signifies that the assets mentioned therein are subject of litigation in Civil Case No. 0004. Also, petitioner states that the notice was addressed to the Register of Deeds and not to the registered owners of the properties subject of recovery in Civil Case No. 0004, and the notice does not contain a command or directive to the property owners to desist from transferring, encumbering, or concealing the sequestered properties without written authority from the PCGG. Thus, petitioner insists that being a notice of *lis pendens* and not a writ or notice of sequestration then the notice does not have to meet the specific requisites under PCGG's Rules and Regulations (PCGG Rules), as well as the Constitution, to be valid.

Private respondent BVI, on the other hand, maintains that the notices annotated on both TCT Nos. 004-2013010452 and 004-2013010453 are notices of sequestration and not notices of *lis pendens*. BVI asserts that the annotations are clear and unequivocal as they use the words and phrases "Notice of Sequestration" and "are deemed sequestered." Thus, there should be no room for interpretation or construction. BVI states that if indeed there was an error, then petitioner should have asked to rectify the error since 27 February 2001 when the annotations were recorded in the titles, or even within a reasonable time thereafter. However, petitioner failed to do so.

Also, BVI insists that petitioner, in its very own petition and in earlier pleadings filed in Civil Case No. 0004, had always taken the position that the properties in question were actually sequestered properties. Thus, the notice should conform to the Constitution and the PCGG Rules. BVI asserts that the notice failed to comply with the necessary requirements of sequestration and is void *ab initio* for the following reasons: (1) it was only signed by one PCGG Commissioner; (2) it was only issued on 22 March 1989, or long after the power of the PCGG to sequester properties had expired on 2 August 1987; and (3) Director Parras had no authority to issue the notice since he was not a PCGG Commissioner at that time and any delegation made to him, as the representative of the PCGG, was invalid and ineffective.