

THIRD DIVISION

[G.R. No. 174462, February 10, 2016]

PHILIPPINE OVERSEAS TELECOMMUNICATIONS CORPORATION (POTC), PHILIPPINE COMMUNICATIONS SATELLITE CORPORATION (PHILCOMSAT), PETITIONERS, VS. SANDIGANBAYAN (3rd DIVISION), REPUBLIC OF THE PHILIPPINES REPRESENTED BY PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), RESPONDENTS.

D E C I S I O N

PEREZ, J.:

Before this Court is a Petition for *Certiorari* filed under Rule 65 of the Rules of Court, seeking to nullify the Resolution^[1] of public respondent Sandiganbayan dated 20 October 2005 in Civil Case No. 0009, entitled "*Republic of the Philippines v. Jose L. Africa, Manuel H. Nieto, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile, Potenciano Ilusorio*" The assailed Resolution denied petitioners' Omnibus Motion, which sought the lifting of the sequestration order issued by the Presidential Commission on Good Government (PCGG) on Philippine Overseas Telecommunications Corporation (POTC) and Philippine Communications Satellite Corporation (PHILCOMSAT).

The antecedent facts are as follows:

However whoever reads recent Philippine history, the EDSA People Power Revolution in February 1986 is a singular political phenomenon. Unprecedented, unique, unnatural even, the revolution was unarmed. But it succeeded. The unnatural means yielded results natural to a revolution. The vanquished and its acts had to yield to the victors and its reactions. The new President Corazon Cojuangco Aquino, exercising revolutionary government powers issued Executive Order Nos. 1 and 2, creating the PCGG to recover properties amassed by the unseated President Ferdinand Edralin Marcos, Sr., his immediate family, relatives, and cronies, "by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship,"^[2] and to sequester and take over such properties. The present litigation is one of the many offsprings of the revolutionary orders.

Pursuant to Executive Order Nos. 1 and 2, on 14 March 1986, then PCGG Commissioner Ramon A. Diaz issued a letter^[3] directing Officer-In-Charge Carlos M. Ferrales to:

- a. Sequester and immediately take over POTC and PHILCOMSAT among others, and

- b. To freeze all withdrawals, transfers and/or remittances under any type of deposit accounts, trust accounts or placements.

POTC is a private corporation, which is a main stockholder of PHILCOMSAT, a government-owned and controlled corporation, which was established in 1966 and was granted a legislative telecommunications franchise by virtue of Republic Act No. 5514, as amended by Republic Act No. 7949, to establish and operate international satellite communication in the Philippines.

On 22 July 1987, the Office of the Solicitor General (OSG), on behalf of the Republic of the Philippines, filed a Complaint for Reconveyance, Reversion, Accounting and Restitution, and Damages, docketed as Civil Case No. 0009, against Jose L. Africa, Manuel H. Nieto, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile, and Potenciano Ilusorio (collectively hereinafter referred to as "defendants"). The Complaint averred the following:

- (a) xxx through manipulations and dubious arrangements with officers and members of the Board of the National Development Corporation (NDC), xxx purchased NDC's shareholdings in the Philippine Communications Satellite Corporation (PHILCOMSAT), xxx under highly unconscionable terms and conditions manifestly disadvantageous to Plaintiff and the Filipino people[;]
- (b) xxx
- (c) illegally manipulated, under the guise of expanding the operations of PHILCOMSAT, the purchase of major shareholdings of Cable and Wireless Limited, a London-based telecommunication company, in Eastern Telecommunications Philippines, Incorporated (ETPI), which shareholdings Defendants Roberto S. Benedicto, Jose L. Africa and Manuel H. Nieto, Jr., by themselves and through corporations namely Polygon Investors and Managers, Inc., Aeroco[m] Investors and Managers Inc. and Universal Molasses Corporation organized by them, were beneficially held for themselves and for Defendants Ferdinand E. Marcos and Imelda R. Marcos;
- (d) illegally effected, xxx contracts involving corporations which they owned and/or controlled, such as: The contract between ETPI and Polygon Investors and Managers, Inc., thereby ensuring effective control of ETPI and advancing Defendants' scheme to monopolize the telecommunications industry;
- (e) acted in collaboration with each other as dummies, nominees and/or agents of Defendants Ferdinand E. Marcos, Imelda R. Marcos and Ferdinand R. Marcos, Jr. in several corporations, such as, the Mid-Pasig Land Development Corporation and Independent Realty Corporation which, through manipulations by said Defendants, appropriated a substantial portion of the shareholdings in POTC-PHILCOMSAT held by the late Honorio Poblador, Jr., Jose Valdez and Francisco Reyes,

- thereby further advancing Defendants' scheme to monopolize the telecommunications industry;
- (f) received improper payments such as bribes, kickbacks or commissions from an overprice in the purchase of equipment for DOMSAT[.] ^[4]

As alleged in the Complaint, through clever schemes, the wealth that should go to the coffers of the government, which should be deemed acquired for the benefit of the Republic, went to the defendants in their own individual accounts—some, however, through conduits or corporations. The property supposedly acquired illegally was specifically set out in a list appended to the Complaint as Annex A. For instance, Jose L. Africa, one of the defendants, allegedly channelled the ill-gotten wealth in shares of stock in twenty (20) corporations, to wit:

1. Security Bank and Trust Company
2. SBTC Trust, Class A, Account No. 2016
3. SBTC Trust, Class A, Account No. 2017
4. SBTC Trust, Class A, Account No. 2018
5. Oceanic Wireless Network, Inc.
6. Bukidnon Sugar [Milling] Co., Inc.
7. Domestic Satellite Phils., Inc.
8. Northern Lines, Inc.
9. **Philippine Communications Satellite Corp.**
10. Far East Managers and Investors, Inc.
11. Traders Royal Bank
12. **Philippine Overseas Telecommunications Corp.**
13. Eastern Telecommunications Philippines, Inc.
14. Polygon Investors & Managers, Inc.
15. Universal Molasses Corp.
16. Silangan Investors and Managers, Inc.
17. Masters Assets Corp., Class B
18. Gainful Assets Corp., Class B
19. Aerocom Investors and Managers, Inc.
20. Luzon Stevedoring Corp.
21. Amalgamated Motors (Philippines), Inc.
22. Philippine National Construction Corp.
23. Consolidated Tobacco Industries of the Philippines. ^[5]

Another defendant, Manuel H. Nieto, Jr., allegedly channelled ill-gotten wealth into shares of stock in fifteen (15) corporations, namely:

1. Ozamis Agricultural Development, Inc.
2. Eastern Telecommunications Philippines, Inc.
3. Rang'ay Farms
4. Hacienda San Martin, Inc.
5. Domestic Satellite
6. Bukidnon Sugar Milling Co., Inc.
7. Sunnyday Farms Company Inc.
8. Silangan Investors & Managers, Inc.

9. **Phil. Communications Satellite Corp.**
10. Oceanic Wireless Network, Inc.
11. Integral Factors Corp.
12. **Phil. Overseas Telecommunication[s] Corp.**
13. Aerocom Investors and Managers, Inc.
14. Del Carmen Investments, Inc.
15. Polygon Ventures & Land Development Corp.^[6]

As borne by the records,^[7] the following are the stockholdings in POTC of the defendants in Civil Case No. 0009:

1. (Estate of) Jose L. Africa	1
2. Manuel-H. Nieto, Jr.	107
3. Ferdinand and Imelda Marcos	0 ^[8]
4. Ferdinand Marcos, Jr.	0 ^[9]
5. (Estate of) Roberto Benedicto	464 (reverted to the Republic)
6. Juan Ponce Enrile	0 ^[10]
7. (Estate of) Potenciano Ilusorio	16 (reverted to the Republic)

Pursuant to its power to sequester and to avoid further dissipation of the sequestered properties, the PCGG appointed a comptroller, who controlled the disbursement of funds of POTC and PHILCOMSAT. At the same time, in a Memorandum^[11] by the PCGG dated 24 October 2000 to the Bangko Sentral ng Pilipinas (BSP), the PCGG informed the BSP that in all cash withdrawals, transfer of funds, money market placements and disbursements of POTC and PHILCOMSAT, the approval of the PCGG appointed comptroller is required. The Memorandum was to be disseminated to all commercial banks and other non-bank financial institutions performing quasi-banking functions.

From Civil Case No. 0009 sprung other cases: (1) Injunction; (2) Mandamus; and (3) Approval of the Compromise Agreement.

On 1 March 1991, POTC and PHILCOMSAT filed separate complaints for Injunction with the Sandiganbayan against the Republic to nullify and lift the sequestration order issued against them for failure to file the necessary judicial action against them within the period prescribed by the Constitution and to enjoin the PCGG from interfering with their management and operation, which the Sandiganbayan granted on 4 December 1991 through a Resolution.^[12]

On 23 January 1995, however, this Court, in *Republic v. Sandiganbayan (First Division)*, G.R. No. 96073, 240 SCRA 376, January 23, 1995, reversed the Sandiganbayan Resolution and ruled that the filing of Complaint for Reconveyance, Reversion, Accounting and Restitution, and Damages, docketed as Civil Case No. 0009, was filed within the required 6-month period.

Besides the complaint for Injunction, POTC also filed a complaint for Mandamus

against the Republic before the Sandiganbayan to compel the PCGG to return POTC's Stock and Transfer Book and Stock Certificate Booklets. The case was docketed as Civil Case No. 0148.

On 13 May 1993, the Sandiganbayan granted the Mandamus, and the Decision became final and executory.

On 28 June 1996, Atty. Potenciano Ilusorio (Ilusorio), one of the defendants in the Civil Case No. 0009, entered into a Compromise Agreement with the Republic. Out of 5,400 or 40% of the shares of stock of POTC in the names of Mid-Pasig Land Development Corporation (MLDC) and Independent Realty Corporation (IRC), the government recovered 4,727 shares or 34.9% of the shares of stock. Ilusorio, on the other hand, retained 673 shares or 5% of the shares of stock.

The Compromise Agreement was approved by the Sandiganbayan in an Order^[13] dated 8 June 1998.

In opposition to the Compromise Agreement, MLDC and IRC filed a Motion to Vacate the Compromise Agreement on 16 August and 2 October 1998, respectively, which was denied by the Sandiganbayan in a Resolution^[14] dated 20 December 1999. In the same Resolution, the Sandiganbayan directed the Corporate Secretary of POTC to issue within ten (10) days from receipt thereof, the corresponding Stock Certificate of the government. Pursuant to the Order, 4,727 or 34.9% shares of stock of POTC were transferred in the name of the Republic of the Philippines.

Aggrieved, the PCGG, MLDC, and IRC filed separate petitions before this Court to nullify the Order of the Sandiganbayan approving the Compromise Agreement, which this Court, on 15 June 2005, declared valid in *Republic of the Phils. v. Sandiganbayan*, G.R. No. 141796 and 141804. The Decision of the Court has long become final and executory. The dispositive portion of the Decision reads:

Having been sealed with court approval, the Compromise Agreement has the force of res judicata between the parties and should be complied with in accordance with its terms. Pursuant thereto, Victoria C. de los Reyes, Corporate Secretary of the POTC, transmitted to Mr. Magdangal B. Elma, then Chief Presidential Legal Counsel and Chairman of PCGG, Stock Certificate No. 131 dated January 10, 2000, issued in the name of the Republic of the Philippines, for 4,727 POTC shares. Thus, the Compromise Agreement was partly implemented.

WHEREFORE, the instant petitions are hereby *DISMISSED*.

SO ORDERED.^[15] (Citations omitted)

By virtue of the aforesaid Decision in *Republic of the Phils. v. Sandiganbayan*, POTC and PHILCOMSAT filed an Omnibus Motion^[16] dated 28 February 2005, which sought to nullify and/or discharge the continued sequestration of POTC and PHILCOMSAT and to declare null and void the PCGG Memorandum to the BSP dated 24 October 2000.