

SECOND DIVISION

[G.R. No. 195295, October 05, 2016]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN, FOURTH DIVISION, FERDINAND
"BONGBONG" R. MARCOS, JR., MA. IMELDA "IMEE" R. MARCOS-
MANOTOC, GREGORIO MA. ARANETA III, AND IRENE R. MARCOS
ARANETA, RESPONDENTS.**

DECISION

LEONEN, J.:

This resolves a Petition^[1] for certiorari assailing the Sandiganbayan's cancellation of a notice of *lis pendens* issued over property alleged to be ill-gotten wealth of Former President Ferdinand E. Marcos (Former President Marcos) and his associates.

Respondents Ferdinand "Bongbong" R. Marcos, Jr. (Marcos, Jr.), Maria Imelda R. Marcos (Imee), and Irene Marcos Araneta (Irene) appear to be the registered owners of a parcel of land located in the Municipality of Cabuyao, Laguna (Cabuyao property) and covered by Transfer Certificate of Title (TCT) No. T-85026.^[2]

On July 16, 1987, petitioner Republic of the Philippines, through the Presidential Commission on Good Government, filed before the Sandiganbayan a Complaint for reversion, reconveyance, restitution, accounting, and damages against Former President Marcos, Imelda R. Marcos, their children, Marcos, Jr., Imee, and Irene, and their sons-in-law, Tomas Manotoc and Gregorio Ma. Araneta III.^[3] This case was docketed as Civil Case No. 0002 (Civil Case).^[4] The Complaint principally sought to recover ill-gotten wealth acquired by the Marcoses during their incumbency as public officers in active collaboration with their cronies, dummies, and close business associates.^[5]

On April 23, 1990, petitioner filed its Third Amended Complaint dated April 20, 1990, which was admitted by the Sandiganbayan (admitted Complaint).^[6]

On June 1, 1994, the Presidential Commission on Good Government caused the annotation of a notice of *lis pendens* on TCT No. T-85026 in relation to the Civil Case,^[7] which reads:

Entry No. 268288 - NOTICE OF LIS PENDENS - filed by Commissioner Herminio A. Mendoza for and in behalf of the Republic of the Philippines, entitled Republic of the Philippines versus Ferdinand E. Marcos et al., in Civil Case No. 0002 for Reconveyance, Reversion, Accounting, Restitution and Damages of Office of the President, Presidential Commission on Good Government, filed in Env. No. T-85026.

Date of Instrument - June 1, 1994
Date of Inscription-June 13, 1994 at 4:10 p.m.

(signed)
Dante A. Ariola
Register of Deeds^[8]

On June 13, 1994, the Register of Deeds of Cabuyao, Laguna, annotated the notice of *lis pendens* on TCT No. T-85026.^[9]

Marcos, Jr. filed an Omnibus Motion^[10] dated June 5, 1997 praying for the cancellation of the notice of *lis pendens* and pointing out that the Cabuyao property was not specifically mentioned in the original and amended Complaints or their annexes. Marcos, Jr. also prayed that petitioner be directed to immediately vacate the property, cease from further interfering with and exercising ownership over it, and return it to him and the other registered owners.^[11]

On July 15, 1997, petitioner filed a Motion for Leave to Admit Fourth Amended Complaint;^[12] with an attached Fourth Amended Complaint.^[13] The Fourth Amended Complaint was substantially identical to the admitted Complaint, but with the amended annex List of Assets and Other Properties of Ferdinand E. Marcos, Imelda R. Marcos and Immediate Family.^[14] The list specifically mentioned the Cabuyao property as one among the assets of the Marcoses.^[15]

The Sandiganbayan denied the Motion to admit the Fourth Amended Complaint:

[F]or failure of the plaintiff-movant to comply with the provision of Section 7, Rule 12 of the 1997 Rules of Civil Procedure which provides:

"Section 7. Filing of amended pleadings. When any pleading is amended, a new copy of the entire pleading, incorporating the amendments which shall be indicated by appropriate marks, shall be filed."

and for further reason that the original complaint in this case was filed with this Court on July 16, 1987 yet, or more than 11 years ago, and this case has not even reached the pre-trial stage because not all of the defendants have been served with summons.^[16]

Marcos, Jr. filed an Urgent Motion to Resolve dated July 29, 2002 seeking the immediate resolution of the Omnibus Motion.^[17] Petitioner filed a Comment/Opposition^[18] seeking an order of preliminary attachment over the Cabuyao property. In the Resolution^[19] dated January 11, 2010, the Sandiganbayan

ordered the cancellation of the annotation of *lis pendens* on TCT No. T-85026. It directed petitioner to immediately cease from further interfering with and exercising ownership over the Cabuyao property and to return its possession and control to the Marcoses.^[20] It held that because the admitted Complaint did not specifically mention the Cabuyao property, the Cabuyao property was not involved in the Civil Case; therefore, petitioner has over the property no actionable claim that needs to be protected via a notice of *lis pendens*.^[21]

On the writ of preliminary attachment, the Sandiganbayan held that petitioner's allegations were insufficient to support an application for a writ of attachment.^[22] The Cabuyao property was never concealed, removed, or disposed of by the Marcoses.^[23] There was seemingly no particular exigency warranting the attachment of the Cabuyao property, considering that the petitioner had been in exclusive possession of the property for more than a decade and yet it did not promptly move for the issuance of a writ of preliminary attachment.^[24]

Petitioner's Motion for Reconsideration was denied in the Resolution^[25] dated December 1, 2010. Hence, this Petition^[26] was filed.

In the Resolution^[27] dated February 21, 2011, this Court issued a temporary restraining order enjoining respondents from implementing the assailed Sandiganbayan Resolutions in the Civil Case, and directed respondents to comment.

Respondents Imelda R. Marcos,^[28] Marcos, Jr.,^[29] and Gregorio Ma. Araneta III and Irene^[30] filed their respective Comments to the Petition. This Court dispensed with the filing of the comment of respondent Imee.^[31] Petitioner filed its Replies^[32] to respondents' Comments.

Petitioner argues that the Cabuyao property forms part of the assets alleged to have been unlawfully acquired by Former President Marcos and his family during the Marcos regime. It is sought to be reconveyed in favor of petitioner in the Civil Case and was, thus, properly subject of the notice of *lis pendens*. Petitioner further argues that the allegations in the admitted Complaint relate to all properties, real or personal, acquired by Former President Marcos and his family during the Marcos regime.^[33] The list of assets and properties specified as forming part of the ill-gotten wealth of the Marcoses is preceded by the words "include but are not limited" to those already enumerated:^[34]

16. Among others, in furtherance of the plan and acting in the manner referred to above, in unlawful concert with one another and with gross abuse of power and authority, Defendants Ferdinand E. Marcos and Imelda Marcos:

....

(f) extorted, demanded and received improper payments in the form of, among others, commissions, bribes and kickbacks from persons and corporations entering into contracts with the

Government or its agencies or instrumentalities for themselves, or for third persons, permits, licenses or concessions which were then required in order to engage in particular business activities;

....

(i) engaged in other illegal and improper acts and practices designed to defraud Plaintiff and the Filipino people, or otherwise misappropriated and converted to their own use, benefit and enrichment the lawful patrimony and revenues of Plaintiff and the Filipino people.

....

17. Among the assets acquired by Defendants in the manner above described and discovered by the Commission in the exercise of its official responsibilities are funds and other property listed in Annex "A" hereof and made an integral part of the complaint.

18 Defendants, with the active collaboration of third persons who are subject of separate suits, after acquiring ill-gotten wealth consisting of funds and other property as mentioned above:

....

19. As an integral element of their above mentioned scheme, acting upon the advice and retaining the service of prominent lawyers, bankers, accountants and other persons, Defendants employed numerous stratagems, schemes, artifices and devices to prevent disclosure, conceal and frustrate recovery of their ill-gotten wealth or the manner by which it was acquired, including the use of (a) code names or pseudonyms, (b) trustees, dummies, nominees or agents, (c) societies and foundations organized in, among others, Liechtenstein, and/or (d) layers of offshore companies and corporations in various places such as Netherlands, Antilles, Panama, Hongkong and the Virgin Islands:

20. The assets and other properties of defendants in the Philippines include, but are not limited to the following:

....

(b) Real Properties

....

28. (a) The 1935 Constitution, as well as the 1973 Marcos-promulgated Constitution, provides that the President shall not be entitled to any emolument in addition to a fixed salary which shall be neither increased nor diminished during the period for which he shall have been elected.

(b) All income received by Defendant Ferdinand E. Marcos during his incumbency as President in excess of his salary constitutes illegal income, having been acquired in violation of the provisions of a Constitution which he himself caused to be ratified.

29. Defendants Imelda (Imee) R. Marcos-Manotoc, Tomas Manotoc, Irene R. Marcos Araneta, Gregorio Ma. Araneta III, and Ferdinand R. Marcos, Jr., actively collaborated, with Defendants Ferdinand E. Marcos and Imelda R. Marcos among others, in confiscating and/or unlawfully appropriating funds and other property, and in concealing the same as described above. In addition, each of said Defendants, either by taking undue advantage of their relationship with Defendants Ferdinand E. Marcos and Imelda R. Marcos, or by reason of the above-described active collaboration, unlawfully acquired or received property, shares of stocks in corporations, illegal payments such as commissions, bribes or kick-backs, and other forms of improper privileges, income, revenues and benefits[.][35]

Moreover, petitioner claims that the grounds for cancelling a notice of *lis pendens* are not present.[36]

In any case, petitioner also insists that the amendment of the Complaint to specifically include the Cabuyao property is a formal amendment that may be done at any time. The Sandiganbayan should have been more liberal in resolving the Motion to admit the Fourth Amended Complaint.[37] Additionally, petitioner argues that the denial of a motion to admit an amended complaint is an interlocutory one and cannot attain finality.[38]

As regards the entitlement to a writ of preliminary attachment, petitioner argues that it has demonstrated entitlement to a writ of attachment over the Cabuyao property. Sequestration is akin to preliminary attachment and is among the other provisional remedies available to the Presidential Commission on Good Government, which was essentially founded on urgency and necessity to preserve ill-gotten wealth amassed during the Marcos regime.[39]

The allegations in the admitted Complaint narrate in detail the manner by which the Cabuyao property was amassed by the former dictator:

From the early years of his presidency, Defendant Ferdinand E. Marcos took advantage of his powers as President all throughout the period from September 21, 1972 to February [25,] 1986, he gravely abused his powers under martial law and ruled as Dictator under the 1973 Marcos-promulgated Constitution. Defendant Ferdinand E. Marcos, together with other Defendants, acting singly or collectively, in unlawful concert with one another, and with the active collaboration and participation of third persons who are subject of separate suits, in flagrant breach of trust and of their fiduciary obligations as public officers, with gross and scandalous