

FIRST DIVISION

[G.R. No. 160864, November 16, 2016]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. EDUARDO M. COJUANGCO, JR., RESPONDENT.

[G.R. No. 160897]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. EDUARDO M. COJUANGCO, JR., RESPONDENT.

D E C I S I O N

SERENO, C.J.:

Before this Court is a Petition^[1] filed by the Office of the Special Prosecutor (OSP) on 23 December 2003 and a Petition for Review^[2] filed by the Office of the Solicitor General (OSG) on 27 January 2004. Both Petitions, brought under Rule 45 of the 1997 Rules of Civil Procedure, prayed for the reversal of the Resolution^[3] of the Sandiganbayan dated 24 April 2003 and the subsequent Resolution^[4] dated 20 November 2003. In these Resolutions, the Sandiganbayan declared null and void the preliminary investigation conducted by the Presidential Commission on Good Government (PCGG) against Eduardo M. Cojuangco, Jr. (respondent) and the Information filed pursuant thereto in Criminal Case No. 14161.

FACTUAL ANTECEDENTS

The PCGG, through an Information^[5] dated 27 November 1989, charged respondent with violation of Section 4(b) in relation to Section 3(h) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act (R.A. 3019), *viz.*:

That on or about and during the period from 1973 to 1985, both dates inclusive, in Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, in his capacity as a private individual and being then a close associate of former President Ferdinand E. Marcos, did then and there willfully and unlawfully acted [sic] as nominee and/or dummy of the latter in acquiring shares of stock in the Bulletin Today Publishing Company and Liwayway Publishing Inc., both private corporations, thereby inducing and/or causing then President Ferdinand E. Marcos to directly or indirectly, participate in the management and control of and/or have pecuniary or financial interest in the said corporations.

CONTRARY TO LAW.^[6]

An *ex parte* motion for the issuance of a warrant of arrest was thereafter filed by the PCGG with the Sandiganbayan. On 19 January 1990, the Sandiganbayan denied the

motion, based on a finding that the PCGG 's preliminary investigation had established no probable cause against respondent.^[7] The Sandiganbayan also ordered the PCGG to "undertake whatever steps it may deem necessary to sustain the Information" filed against respondent.

The PCGG assailed the Sandiganbayan Resolution before this Court through a Petition for *Certiorari* docketed as G.R. No. 91741.^[8] In a Resolution dated 29 March 1990, the Court found no grave abuse of discretion on the part of the Sandiganbayan in not issuing a warrant for respondent's arrest.^[9] The Petition was consequently dismissed,^[10] but the PCGG was given 60 days within which to "conduct further proceedings, if it so minded."^[11]

The PCGG, through its Security and Investigation Department, proceeded to gather additional evidence against respondent.^[12] On the basis of the new evidence it obtained, the PCGG filed a *Manifestation with Ex Parte Motion to Admit the Amended Information* requesting the Sandiganbayan to allow the amendment of the Information to conform to the evidence.^[13] The original Information was amended to read as follows:

That on or about and during the period from 1973 to 1985, both dates inclusive, in Metro Manila, Philippines [sic], and within the jurisdiction of this Honorable Court, then former President Ferdinand E. Marcos (Deceased) unlawfully acquired shares of stock in the Bulletin Publishing Corporation, a private corporation, representing about fifty-four (54%) percent of its equity, which shares of stock were originally apportioned and issued in the names of his close associates, namely, Cesar Zalamea, Jose Y. Campos and Ramon Cojuangco (Deceased), all of whom unlawfully and willfully [sic] acted as his nominees and/or dummies in the said corporation, and thereafter, then former President Marcos, with the active participation and/or indispensable cooperation of Ramon Cojuangco, and in conspiracy with accused Eduardo Cojuangco, Jr. cancelled or caused to be cancelled the shares of stock assigned and issued to said Ramon Cojuangco and transferred or caused to be transferred the same shares of stock in favor of the said accused Eduardo Cojuangco, Jr., who in his capacity as private individual, conspiring and confederating with Cesar Zalamea and Jose Y. Campos, and acting in substitution of Ramon Cojuangco as an original/initial nominee and/or dummy, did then and there, willfully and unlawfully act and continue to act as nominee and/or dummy of the said former President in the said corporation, thereby knowingly causing former President Marcos to maintain his beneficial ownership of the controlling interest in, and to directly or indirectly participate in the management and control of the said corporation in which the latter was prohibited by the constitution and the law from having any financial or pecuniary interest.

CONTRARY TO LAW.^[14]

On 8 June 1990, the Sandiganbayan issued a Resolution^[15] admitting the Amended Information and directing the issuance of a warrant for the arrest of respondent.^[16]

On 20 June 1990, respondent filed a *Motion to Order the Dismissal of the Information in 'People v. Eduardo Cojuangco' Criminal Case No. 14161 (Sandiganbayan) and to Annul the Warrant of Arrest issued in G.R. No. 91741.*^[17] This motion to dismiss was treated by the Court as a Petition for *Certiorari* under Rule 65 of the Rules of Court and was accordingly docketed as G.R. No. 93884.^[18]

In a Resolution dated 19 June 2001,^[19] the Court found no grave abuse of discretion on the part of Sandiganbayan in issuing a warrant of arrest against respondent. The Court declined to interfere with the finding of probable cause by the Sandiganbayan considering that the matter was addressed to the latter's sound discretion.^[20] Instead, it directed the Sandiganbayan "to resume the proceedings in Criminal Case No. 14161 and dispose of the same with deliberate dispatch."^[21]

In compliance with this Court's ruling, the Sandiganbayan issued a Resolution^[22] setting the arraignment of respondent and the pre-trial of the case on 18 and 19 September 2002, respectively.^[23] However, the scheduled arraignment of the case did not push through. Instead, on 18 September 2002, the prosecution was directed to submit a Memorandum in support of its position that the Sandiganbayan had jurisdiction over respondent.^[24] The arraignment and pre-trial of respondent were rescheduled for 7 November 2002.

The PCGG filed the required Memorandum on 1 October 2002.^[25] Citing Executive Order No. 14 (E.O. 14), as amended, it argued that it was mandated to file all cases involving the ill-gotten wealth of former President Ferdinand E. Marcos and his family before the Sandiganbayan, which shall exercise exclusive and original jurisdiction over the same.^[26]

On 28 October 2002, respondent filed a Reply Memorandum addressing the arguments raised by the PCGG. In particular, he assailed the preliminary investigation it had conducted and the Information filed against him on the basis of this Court's pronouncements in *Cojuangco v. Presidential Commission on Good Governance*.^[27] Respondent argued that the factual circumstances leading to the Court's Decision in *Cojuangco* were likewise present herein.

On 24 April 2003, the Sandiganbayan issued a Resolution that declared null and void the preliminary investigation conducted by the PCGG and the Information filed pursuant thereto. The Sandiganbayan found the investigation arbitrary and unjust, because the entity that had gathered the evidence to support the Information filed against respondent - the PCGG - was also the entity that had conducted the preliminary investigation of his case. Accordingly, the Sandiganbayan ruled that the circumstances fell squarely within the ruling in *Cojuangco*:

The circumstances of the instant case which fall squarely with that of *Cojuangco, Jr. vs. PCGG (supra)*, are peculiar, in the sense that the PCGG itself which gathered the evidence and filed the complaint for purposes of preliminary investigation was the same entity which conducted the preliminary investigation in this case and which, according to the Supreme Court was arbitrary and unjust, thus ruling that the preliminary investigation conducted by the PCGG including the Information filed was null and void. x x x.

WHEREFORE, the Information docketed as Criminal Case No. 14161, filed by the PCGG against Eduardo M. Cojuangco, Jr., is hereby declared null and void. The PCGG is hereby directed to transmit the complaints and records of the instant case under I.S. No. 13 to the proper investigating official for appropriate action.

The arraignment and pre-trial on this case previously scheduled on April 28, 2003, is hereby cancelled.

SO ORDERED.^[28]

The prosecution moved for the reconsideration of the Resolution, but the motion was likewise denied by the Sandiganbayan in a subsequent Resolution dated 14 November 2003.^[29]

In separate Petitions for Review, the OSP and the OSG asked this Court to reverse and set aside the assailed Resolutions of the Sandiganbayan.^[30] The two Petitions were consolidated by this Court on 21 January 2004.^[31]

In their Petitions, the OSP and the OSG argue that the preliminary investigation conducted by the PCGG and the Information filed against respondent are valid based on the following grounds:

1. The PCGG is authorized to carry out the preliminary investigation against respondent in Criminal Case No. 14161 under E.O. No. 14.
2. The validity of the preliminary investigation conducted by the PCGG has been affirmed by this Court in the latter's Resolutions in G.R. Nos. 91741 and 93884. The finding therein constitutes the law of the case and cannot be disturbed.
3. The finding of probable cause by the Sandiganbayan leading to its issuance of a warrant of arrest against respondent confirmed that he had not been deprived of an impartial judge during the preliminary investigation proceedings.

THE ISSUE

We are called upon to determine whether the Sandiganbayan erred when it declared null and void the preliminary investigation conducted by the PCGG and the Information filed pursuant to that investigation.

OUR RULING

We DENY the Petitions. We find no error in the assailed Sandiganbayan Resolutions.

The Sandiganbayan correctly dismissed the Information filed against respondent, pursuant to this Court's ruling in Cojuangco v. PCGG.

In *Cojuangco*, this Court declared the preliminary investigation conducted by the PCGG in Criminal Cases No. 14398 and 14399 null and void on due process grounds.

It was noted that prior to the conduct of the preliminary investigation, the PCGG had gathered evidence against respondent, issued a sequestration order against him, and filed a civil case for recovery of ill-gotten wealth based on the same facts involved in the criminal cases. Based on those circumstances, the Court found that the PCGG could not have possibly acted with the "cold neutrality of an impartial judge" during the preliminary investigation proceedings, since the latter had already formed conclusions on the matter. The Court stated in *Cojuangco*:

The Court cannot close its eyes to the glaring fact that in earlier instances, the PCGG had already found a *prima facie* case against the petitioner and intervenors when, acting like a judge, it caused the sequestration of the properties and the issuance of the freeze order of the properties of petitioner. Thereafter, acting as a law enforcer, in collaboration with the Solicitor General, the PCGG gathered the evidence and upon finding cogent basis therefor tiled the aforesaid civil complaint. Consequently the Solicitor General tiled a series of criminal complaints.

x x x x

The Court finds that under the circumstances of the case, the PCGG cannot inspire belief that it could be impartial in the conduct of the preliminary investigation of the aforesaid complaints against petitioner and intervenors. It cannot possibly preside in the said preliminary investigation with an even hand.

The Court holds that a just and fair administration of justice can be promoted if the PCGG would be prohibited from conducting the preliminary investigation of the complaints subject of this petition and the petition for intervention and that the records of the same should be forwarded to the Ombudsman, who as an independent constitutional officer has primary jurisdiction over cases of this nature, to conduct such preliminary investigation and take appropriate action.

All violators of the law must be brought before the bar of justice. However, they must be afforded due process and equal protection of the law, whoever they may be.

WHEREFORE, the petitions of Eduardo M. Cojuangco, Jr. and intervenors Maria Clara Lobregat, and Jose Eleazar, Jr. are hereby GRANTED. The PCGG is directed to transmit the complaints and records thereof under I.S. Nos. 74, 75, 79, 80, 81, 82, 83 and 84 to the Ombudsman for appropriate action. All proceedings of the preliminary investigation conducted by the PCGG of said complaints are hereby declared null and void including the informations which it filed in the Sandiganbayan against petitioner and intervenors docketed as Criminal Cases Nos. 14398 and 14399. The *status quo* order which this Court issued on March 12, 1990 is hereby made permanent and the PCGG is permanently prohibited from further conducting the preliminary investigation of the aforesaid complaints. The Court makes no pronouncement as to costs.