

FIRST DIVISION

[G.R. No. 180418, August 28, 2013]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LUZ REYES-BAKUNAWA, MANUEL BAKUNAWA, JR., MANUEL BAKUNAWA III, FERDINAND E. MARCOS AND IMELDA R. MARCOS, RESPONDENTS.

D E C I S I O N

BERSAMIN, J.:

Assets or properties, to be considered as ill-gotten wealth, must be shown to have originated from the Government itself, and should have been taken by former President Marcos, the members of his immediate family, relatives, close subordinates and close associates by illegal means. That one served as a government official or employee during the Marcos administration did not immediately make her a close subordinate or close associate of former President Marcos.^[1]

The Case

The Republic appeals the adverse decision rendered on April 10, 2002,^[2] and the resolution issued on November 8, 2007,^[3] whereby the Sandiganbayan respectively dismissed the complaint for reconveyance, reversion, accounting, restitution and damages filed against respondents in Civil Case No. 0023, and denied the Republic's motion for reconsideration.

Antecedents

Civil Case No. 0023 is an action for reconveyance, reversion, accounting, restitution and damages brought by the Republic against respondents Luz Reyes-Bakunawa, Manuel Bakunawa, Jr., Manuel Bakunawa III, President Marcos and First Lady Imelda R. Marcos for having allegedly acquired and accumulated ill-gotten wealth consisting of funds and other property "in unlawful concert with one another" and "in flagrant breach of trust and of their fiduciary obligations as public officers, with grave abuse of right and power and in brazen violation of the Constitution and laws of the Republic of the Philippines, thus resulting in their unjust enrichment." ^[4]

The complaint alleged that respondent Luz Reyes-Bakunawa (Luz Bakunawa) had served as Imelda Marcos' Social Secretary during the Marcos administration; that it was during that period of her incumbency in that position that Luz Bakunawa and her husband Manuel Bakunawa had acquired assets, funds and other property grossly and manifestly disproportionate to her salaries and their other lawful income;^[5] and that Luz Bakunawa, "by herself and/or in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, taking undue advantage of

her position, influence and connection with the latter Defendant spouses, for their benefit and unjust enrichment and in order to prevent disclosure and recovery of assets illegally obtained, engaged in devices, schemes and stratagems,"^[6] particularly:

- 1) acted as dummies, nominees, and/or agents of the Marcos spouses and, with the active collaboration, knowledge and willing participation of the other defendants, established several corporations engaged in a wide range of economic activities, such as construction and cattle ranching;
- 2) secured favorable contracts with the Department of Public Works and Communications for the construction of government projects through grossly undercapitalized corporations and without complying with such usual requirements as public bidding, notice and publication of contractors;
- 3) unlawfully acquired heads of cattle from the government dispersal program and raised them on ranch lands encroaching on forest zones;
- 4) unlawfully encroached upon a mangrove-forested section in Masbate, Masbate and converted it into a fishpond;
- 5) unlawfully amassed funds by obtaining huge credit lines from government financial institutions, and incorporating into their contracts a cost-escalation adjustment provision to justify collection of grossly arbitrary and unconscionable amounts unsupported by evidence of increase in prices;
- 6) unlawfully imported hundreds of brand-new units of heavy equipment without paying customs duties and other allied taxes amounting to millions of pesos, by falsely representing said heavy equipment to be for official government use and selling them at very low prices to avoid paying the required taxes.^[7]

The Republic prayed for: (a) the reconveyance to itself of all funds and other property impressed with constructive trust, as well as funds and other property acquired by respondents' abuse of right and power and through unjust enrichment, plus interests; (b) accounting of all beneficial interests in funds, properties and assets in excess of their unlawful earnings; and (c) payment of actual damages to be proved during the trial, moral damages of P50,000,000,000.00, temperate, nominal and exemplary damages, attorney's fees, litigation expenses and treble judicial costs.^[8]

In their amended answer, the Bakunawas alleged that Luz Bakunawa was never the Social Secretary of Imelda Marcos, but only an employee in the office of the Social Secretary; that the properties acquired while Luz Bakunawa was employed in the Government were purchased with honestly earned money and their acquisition was well within their legitimate income; that their family owned and controlled five closed family corporations, namely: (1) Hi-Tri Development Corporation; (2) 7-R Development Corporation; (3) 7-R Heavy Equipment, Inc.; (4) 7-R Sales Company, Inc.; and (5) 7-R Ranch, Inc.; that their public works contracts were awarded to them in accordance with law; that their acquisition of the heads of cattle were legal;

[9] and that they did not commit any breach of trust while in public office, and did not possess illegally acquired funds that rendered them liable under constructive trust in favor of the Republic.[10]

During the pre-trial on August 26, 1999, the Bakunawas admitted that: (a) the properties enumerated in Annex A of the complaint^[11] belonged to or were connected to them, except three corporations, namely: 7-R International Trading, 7-R Enterprise, Inc., and 7-R Group of Companies; and (b) two parcels of land that belonged to one of their children.^[12]

Also during the pre-trial, the parties agreed on the following statement of the issues, to wit:

[t]he fundamental issue in this case is whether or not defendant Luz Bakunawa, considering her position in Malacañang during the incumbency of President Ferdinand E. Marcos from 1970 up to 1986, occupied a confidential position in Malacañang, and was able to obtain contracts, run businesses and acquire real properties as enumerated in the Complaint, using her office and the influence of either or both of the [s]pouses Ferdinand and Imelda Marcos. The parties agreed that it is the use of the influence of the Spouses Marcos that constitutes the essence of the case, and not the failure to report the Statement of Assets and Liabilities or any other impropriety in the acquisition of the properties herein, this case having been filed under the authority given to the Presidential Commission on Good Government under Executive Orders No. 1,2, 14 and 14-a.^[13]

After the Republic rested its case, respondents filed their motion to dismiss,^[14] insisting that the Republic "has failed to establish even prima facie, its case and/or charges against them."^[15]

Ruling of the Sandiganbayan

On April 10, 2002, the Sandiganbayan rendered its decision in favor of respondents, to wit:^[16]

x x x x

As the evidence stands, neither the presence of the link with the Marcoses, nor the irrefutability of the evidence against the Bakunawas for their misuse of that connection exists to justify the instant action by the PCGG.

In view of all the above, this Court is constrained to grant the Motion to Dismiss, as it hereby dismisses, the Complaint of the plaintiff for its failure to prove the essential allegations thereof.

The writs of sequestration issued and in force against the properties of the Bakunawas as enumerated in Annex A of the Complaint (page 24 and p. 34, Vol. I, Record) are lifted, set aside and declared of no further force and effect.

SO ORDERED.

The Sandiganbayan justified its decision in the following manner:

x x x x

Many of the plaintiff's allegations in its specific averments (Article V) in the complaint are alluded to in the evidence in a general fashion: engaging in cattle ranching and construction [para. 12 (a)], entering into public works contracts [para.12 (b)], acquisition of mangrove areas [para. 12 (c)]. Nothing exists in the record, however, with respect to undercapitalization of the corporation, non-compliance with bidding requirements, encroachment of ranches into forest zones, huge credit lines, unjustified claims of cost escalation adjustment, and importation of heavy equipment.

Properties have been shown in the name of the spouses Bakunawa or either of them; testimonies have been rendered about eviction, official documents presented with respect to public works contracts, and finally, a Statement of Assets and Liabilities for the year 1985. Indeed, to hear some of the witnesses, acts of oppression appear to have been committed if not by the wife then by the husband Manuel Bakunawa. There is no indication however, that the acts of oppression involved the improper use of influence on the part of the defendant Luz Bakunawa by reason of her having been employed in the office of the Social Secretary of Imelda Marcos when the latter was the First Lady.

x x x x

An examination of the testimonial evidence for the Plaintiff, as summarized in the first part of this decision, shows its concentration in the alleged dispossession of some landowners of their occupied land in the province of Masbate by the defendants Bakunawa and the allegedly (sic) inaction by the Bureau of Forestry and the police agencies thereon. Thus, the almost uniform allegation of witnesses is that they were dispossessed of pasture lands which they believed they were entitled to possess. There were documents presented to prove that, indeed, the witnesses had claims to these pieces of property or had occupied them and had introduced improvements thereon.

The tenor of the testimony of the said witnesses is that while there was no force directly applied in the dispossession of their properties, their lands, however, were fenced in, and occupied by, other people, allegedly the Bakunawas and secured by armed and uniformed men.

There is likewise the contention of the plaintiff's witnesses that they did not know who these men were, although it has been said that one or two of the men who helped in fencing off these properties were employees of the Bakunawas.

What is clear is that with the evidence thus far, the Bakunawas, or more

specifically, Manuel Bakunawa, ignored the Bureau of Forestry summons, and caused the unceremonious exclusion of people who had apparently occupied rather large tracts of land under permits for the Bureau or those with pending applications.

There also seems to be evidence that defendant Luz Bakunawa did quite a bit of work in her capacity as a member of the staff of the Social Secretary of Imelda Marcos. While the influence of Luz Bakunawa may be assumed or conjectured, there has been no evidence which would categorically show that the position of defendant Luz Bakunawa in Malacañang "in concert with the spouses Marcos" or either of them was the explanation for the absence of the law enforcement officers or the inaction of the administrative officers of the government.

x x x x

The influence may be assumed and in common parlance, it might be reasonably made. But to conclude that there was abuse of office by Luz Bakunawa or her utilization of the influence of her office or of the spouses Marcos cannot be assumed or stated in any certainty.

And since, as aforesaid, the action herein is confiscatory in character, assumptions will not do to obtain judgment against the defendants Bakunawa.^[17]

The Sandiganbayan ruled that in civil suits initiated by the Presidential Commission on Good Government (PCGG) for the recovery of illegally acquired property pursuant to Republic Act No. 1379,^[18] the Republic must show not only that defendant was a subordinate of the Marcos spouses or of either of them, but also that the relationship was similar to that of an immediate member of the Marcos family or a dummy of the Marcoses.^[19] It concluded that no proof established the link between the alleged acts of the Bakunawas and those of the Marcoses, or even the proximity of Luz Bakunawa as a Marcos relative or Marcos dummy.

The Republic sought the reconsideration of the decision, arguing that the Sandiganbayan erred in holding that it did not show the Bakunawas' link with the Marcoses, and in ruling that it did not prove that the Bakunawas had abused their connections or close association with the Marcoses.^[20]

On November 8, 2007, the Sandiganbayan denied the Republic's motion for reconsideration,^[21] reiterating its ruling that the Republic did not discharge its burden of proving the close links between the Bakunawas and the Marcoses, and of proving how the Bakunawas had abused said links, assuming that the links existed.

Hence, this appeal.

Issues

The Republic ascribes the following errors, to wit:

I.