

SECOND DIVISION

[G.R. No. 148154, December 17, 2007]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG),
PETITIONER, VS. SANDIGANBAYAN (SECOND DIVISION) AND
FERDINAND R. MARCOS, JR. (AS EXECUTOR OF THE ESTATE OF
FERDINAND E. MARCOS), RESPONDENTS.**

RESOLUTION

QUISUMBING, J.:

The propriety of filing and granting of a motion for a bill of particulars filed for the estate of a defaulting and deceased defendant is the main issue in this saga of the protracted legal battle between the Philippine government and the Marcoses on alleged ill-gotten wealth.

This special civil action for certiorari^[1] assails two resolutions of the Sandiganbayan ("anti-graft court" or "court") issued during the preliminary legal skirmishes in this 20-year case:^[2] (1) the January 31, 2000 Resolution^[3] which granted the motion for a bill of particulars filed by executor Ferdinand R. Marcos, Jr. (respondent) on behalf of his father's estate and (2) the March 27, 2001 Resolution^[4] which denied the government's motion for reconsideration.

From the records, the antecedent and pertinent facts in this case are as follows:

The administration of then President Corazon C. Aquino successively sued former President Ferdinand E. Marcos and former First Lady Imelda Romualdez-Marcos (Mrs. Marcos), and their alleged cronies or dummies before the anti-graft court to recover the alleged ill-gotten wealth that they amassed during the former president's 20-year rule. Roman A. Cruz, Jr. (Cruz), then president and general manager of the Government Service Insurance System (GSIS); president of the Philippine Airlines (PAL); chairman and president of the Hotel Enterprises of the Philippines, Inc., owner of Hyatt Regency Manila; chairman and president of Manila Hotel Corporation; and chairman of the Commercial Bank of Manila (CBM), is the alleged crony in this case.

On July 21, 1987, the Presidential Commission on Good Government (PCGG), through the Office of the Solicitor General, filed a Complaint^[5] for reconveyance, reversion, accounting, restitution and damages alleging that Cruz and the Marcoses stole public assets and invested them in several institutions here and abroad. Specifically, Cruz allegedly purchased, in connivance with the Marcoses, assets whose values are disproportionate to their legal income, to wit: two residential lots and two condominiums in Baguio City; a residential building in Makati; a parcel of land and six condominium units in California, USA; and a residential land in Metro Manila. The PCGG also prayed for the payment of moral damages of P50 billion and

exemplary damages of P1 billion.

On September 18, 1987, Cruz filed an Omnibus Motion to Dismiss, strike out averments in the complaint, and for a bill of particulars.^[6]

On April 18, 1988, the court ordered that alias summonses be served on the Marcoses who were then in exile in Hawaii.^[7] The court likewise admitted the PCGG's Expanded Complaint^[8] dated April 25, 1988, then denied Cruz's omnibus motion on July 28, 1988 after finding that the expanded complaint sufficiently states causes of action and that the matters alleged are specific enough to allow Cruz to prepare a responsive pleading and for trial.^[9] On September 15, 1988, Cruz filed his answer *ad cautelam*.^[10]

On November 10, 1988, the alias summonses on the Marcoses were served at 2338 Makiki Heights, Honolulu, Hawaii.^[11] The Marcoses, however, failed to file an answer and were accordingly declared in default by the anti-graft court on April 6, 1989.^[12] In *Imelda R. Marcos, et al. v. Garchitorena, et al.*,^[13] this Court upheld the validity of the Marcoses' default status for failure to file an answer within 60 days from November 10, 1988 when the alias summonses were validly served in their house address in Hawaii.

On September 29, 1989, former President Marcos died in Hawaii. He was substituted by his estate, represented by Mrs. Marcos and their three children, upon the motion of the PCGG.^[14]

On July 13, 1992, Mrs. Marcos filed a Motion to Set Aside Order of Default,^[15] which was granted by the anti-graft court on October 28, 1992.^[16] In *Republic v. Sandiganbayan*,^[17] this Court affirmed the resolution of the anti-graft court, ruling that Mrs. Marcos had a meritorious defense, and that failure of a party to properly respond to various complaints brought about by the occurrence of circumstances which ordinary prudence could not have guarded against, such as being barred from returning to the Philippines, numerous civil and criminal suits in the United States, deteriorating health of her husband, and the complexities of her legal battles, is considered as due to fraud, accident and excusable negligence.^[18]

On September 6, 1995, Mrs. Marcos filed her answer,^[19] arguing that the former President Marcos' wealth is not ill-gotten and that the civil complaints and proceedings are void for denying them due process. She also questioned the legality of the PCGG's acts and asked for P20 billion moral and exemplary damages and P10 million attorney's fees.

On January 11, 1999, after pre-trial briefs had been filed by Cruz, the PCGG, and Mrs. Marcos, the court directed former President Marcos' children to appear before it or it will proceed with pre-trial and subsequent proceedings.^[20]

On March 16, 1999, respondent filed a Motion for Leave to File a Responsive Pleading as executor of his late father's estate.^[21] The PCGG opposed the motion, citing as ground the absence of a motion to set aside the default order or any order lifting the default status of former President Marcos.^[22]

On May 28, 1999, the court granted respondent's motion:

x x x x

The Court concedes the plausibility of the stance taken by the Solicitor General that the default Order binds the estate and the executor for they merely derived their right, if any, from the decedent. Considering however the complexities of this case, and so that the case as against the other defendants can proceed smoothly as the stage reached to date is only a continuation of the pre-trial proceedings, the Court, in the interest of justice and conformably with the discretion granted to it under Section 3 of Rule 9 of the Rules of Court hereby accords affirmative relief to the prayer sought in the motion.

Accordingly, Ferdinand R. Marcos, Jr.[,] as executor of the [estate of] deceased defendant Ferdinand E. Marcos[,], is granted a period of ten (10) days from receipt of this Resolution within which to submit his Responsive Pleading.

x x x x^[23]

Respondent asked for three extensions totaling 35 days to file an answer. The court granted the motions and gave him until July 17, 1999 to file an answer. But instead of filing an answer, respondent filed on July 16, 1999, a Motion For Bill of Particulars, ^[24] praying for clearer statements of the allegations which he called "mere conclusions of law, too vague and general to enable defendants to intelligently answer."

The PCGG opposed the motion, arguing that the requested particulars were evidentiary matters; that the motion was dilatory; and that it contravened the May 28, 1999 Resolution granting respondent's Motion for Leave to File a Responsive Pleading.^[25]

The anti-graft court, however, upheld respondent, explaining that the allegations against former President Marcos were vague, general, and were mere conclusions of law. It pointed out that the accusations did not specify the ultimate facts of former President Marcos' participation in Cruz's alleged accumulation of ill-gotten wealth, effectively preventing respondent from intelligently preparing an answer. It noted that this was not the first time the same issue was raised before it, and stressed that this Court had consistently ruled in favor of the motions for bills of particulars of the defendants in the other ill-gotten wealth cases involving the Marcoses.

The *fallo* of the assailed January 31, 2000 Resolution reads:

WHEREFORE, the defendant-movant's motion for bill of particulars is hereby GRANTED.

Accordingly, the plaintiff is hereby ordered to amend pars. 9 and Annex "A", 12 (a) to (e), and 19 in relation to par-3 of the PRAYER, of the Expanded Complaint, to allege the ultimate facts indicating the nature, manner, period and extent of participation of Ferdinand E. Marcos in the

acts referred to therein, and the amount of damages to be proven during trial, respectively, within fifteen (15) days from receipt of this resolution[.]

SO ORDERED.[26]

Not convinced by petitioner's Motion for Reconsideration,[27] the court ruled in the assailed March 27, 2001 Resolution that the motion for a bill of particulars was not dilatory considering that the case was only at its pre-trial stage and that Section 1,[28] Rule 12 of the 1997 Rules of Civil Procedure allows its filing.

In urging us to nullify now the subject resolutions, petitioner, through the PCGG, relies on two grounds:

I.

The motion for bill of particulars contravenes section 3, rule 9 of the 1997 rules [OF] civil procedure.

II.

The motion for bill of particulars is patently dilatory and bereft of any basis.[29]

Invoking Section 3,[30] Rule 9 of the 1997 Rules of Civil Procedure, petitioner argues that since the default order against former President Marcos has not been lifted by any court order, respondent cannot file a motion for a bill of particulars. Petitioner stresses that respondent did not file a motion to lift the default order as executor of his father's estate; thus, he and the estate cannot take part in the trial.

Petitioner also contends that respondent was granted leave to file an answer to the expanded complaint, not a motion for a bill of particulars. The anti-graft court should not have accepted the motion for a bill of particulars after he had filed a motion for leave to file responsive pleading and three successive motions for extension as the motion for a bill of particulars is dilatory. Petitioner insists that respondent impliedly admitted that the complaint sufficiently averred factual matters with definiteness to enable him to properly prepare a responsive pleading because he was able to prepare a draft answer, as stated in his second and third motions for extension. Petitioner adds that the factual matters in the expanded complaint are clear and sufficient as Mrs. Marcos and Cruz had already filed their respective answers.

Petitioner also argues that if the assailed Resolutions are enforced, the People will suffer irreparable damage because petitioner will be forced to prematurely divulge evidentiary matters, which is not a function of a bill of particulars. Petitioner maintains that paragraph 12, subparagraphs a to e,[31] of the expanded complaint "illustrate the essential acts pertaining to the conspirational acts" between Cruz and former President Marcos. Petitioner argues that respondent erroneously took out of context the phrase "unlawful concert" from the rest of the averments in the complaint.

Respondent, for his part, counters that this Court had compelled petitioner in several ill-gotten wealth cases involving the same issues and parties to comply with the motions for bills of particulars filed by other defendants on the ground that most, if not all, of the allegations in the similarly worded complaints for the recovery of alleged ill-gotten wealth consisted of mere conclusions of law and were too vague and general to enable the defendants to intelligently parry them.

Respondent adds that it is misleading for the Government to argue that the default order against his father stands because the May 28, 1999 Resolution effectively lifted it; otherwise, he would not have been called by the court to appear before it and allowed to file a responsive pleading. He stresses that the May 28, 1999 Resolution remains effective for all intents and purposes because petitioner did not file a motion for reconsideration.

Respondent likewise denies that his motion for a bill of particulars is dilatory as it is petitioner's continued refusal to submit a bill of particulars which causes the delay and it is petitioner who is "hedging, flip-flopping and delaying in its prosecution" of Civil Case No. 0006. His draft answer turned out "not an intelligent" one due to the vagueness of the allegations. He claims that petitioner's actions only mean one thing: it has no specific information or evidence to show his father's participation in the acts of which petitioner complains.

In its Reply,^[32] petitioner adds that the acts imputed to former President Marcos were acts that Cruz committed in conspiracy with the late dictator, and which Cruz could not have done without the participation of the latter. Petitioner further argues that conspiracies need not be established by direct evidence of the acts charged but by a number of indefinite acts, conditions and circumstances.

In a nutshell, the ultimate issue is: Did the court commit grave abuse of discretion amounting to lack or excess of jurisdiction in granting respondent's motion for a bill of particulars as executor of former President Marcos' estates considering that the deceased defendant was then a defaulting defendant when the motion was filed?

We rule in the negative, and dismiss the instant petition for utter lack of merit.

Under the Rules of Court, a defending party may be declared in default, upon motion and notice, for failure to file an answer within the allowable period. As a result, the defaulting party cannot take part in the trial albeit he is entitled to notice of subsequent proceedings.^[33]

The remedies against a default order are: (1) a motion to set aside the order of default at any time after discovery thereof and before judgment on the ground that the defendant's failure to file an answer was due to fraud, accident, mistake or excusable neglect and that the defendant has a meritorious defense; (2) a motion for new trial within 15 days from receipt of judgment by default, if judgment had already been rendered before the defendant discovered the default, but before said judgment has become final and executory; (3) an appeal within 15 days from receipt of judgment by default; (4) a petition for relief from judgment within 60 days from notice of judgment and within 6 months from entry thereof; and (5) a petition for certiorari in exceptional circumstances.^[34]