

EN BANC

[G.R. NOS. 157294-95, November 30, 2006]

**JOSEPH VICTOR G. EJERCITO, PETITIONER, VS.
SANDIGANBAYAN (SPECIAL DIVISION) AND PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

DECISION

CARPIO MORALES, J.:

The present petition for certiorari under Rule 65 assails the Sandiganbayan Resolutions dated February 7 and 12, 2003 denying petitioner Joseph Victor G. Ejercito's Motions to Quash Subpoenas Duces Tecum/Ad Testificandum, and Resolution dated March 11, 2003 denying his Motion for Reconsideration of the first two resolutions.

The three resolutions were issued in Criminal Case No. 26558, "*People of the Philippines v. Joseph Ejercito Estrada, et al.*," for plunder, defined and penalized in R.A. 7080, "AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER."

In above-stated case of *People v. Estrada, et al.*, the Special Prosecution Panel^[1] filed on January 20, 2003 before the Sandiganbayan a Request for Issuance of Subpoena Duces Tecum for the issuance of a subpoena directing the President of Export and Industry Bank (EIB, formerly Urban Bank) or his/her authorized representative to produce the following documents during the hearings scheduled on January 22 and 27, 2003:

I. For **Trust Account No. 858**;

1. Account Opening Documents;
2. Trading Order No. 020385 dated January 29, 1999;
3. Confirmation Advice TA 858;
4. Original/Microfilm copies, including the dorsal side, of the following:
 - a. Bank of Commerce MC # 0256254 in the amount of P2,000,000.00;
 - b. Urban bank Corp. MC # 34181 dated November 8, 1999 in the amount of P10,875,749.43;
 - c. Urban Bank MC # 34182 dated November 8, 1999 in the amount of P42,716,554.22;
 - d. Urban Bank Corp. MC # 37661 dated November 23, 1999 in the amount of P54,161,496.52;
5. Trust Agreement dated January 1999:
Trustee: Joseph Victor C. Ejercito
Nominee: URBAN BANK-TRUST DEPARTMENT
Special Private Account No. (SPAN) 858; and

6. Ledger of the SPAN # 858.

II. For Savings Account No. 0116-17345-9

SPAN No. 858

1. Signature Cards; and
2. Statement of Account/Ledger

III. Urban Bank Manager's Check and their corresponding Urban Bank Manager's Check Application Forms, as follows:

1. MC # 039975 dated January 18, 2000 in the amount of P70,000,000.00;
2. MC # 039976 dated January 18, 2000 in the amount of P2,000,000.00;
3. MC # 039977 dated January 18, 2000 in the amount of P2,000,000.00;
4. MC # 039978 dated January 18, 2000 in the amount of P1,000,000.00;

The Special Prosecution Panel also filed on January 20, 2003, a Request for Issuance of Subpoena Duces Tecum/Ad Testificandum directed to the authorized representative of Equitable-PCI Bank to produce statements of account pertaining to certain accounts in the name of "Jose Velarde" and to testify thereon.

The Sandiganbayan granted both requests by Resolution of January 21, 2003 and subpoenas were accordingly issued.

The Special Prosecution Panel filed still another Request for Issuance of Subpoena Duces Tecum/Ad Testificandum dated January 23, 2003 for the President of EIB or his/her authorized representative to produce the same documents subject of the Subpoena Duces Tecum dated January 21, 2003 and to testify thereon on the hearings scheduled on January 27 and 29, 2003 and subsequent dates until completion of the testimony. The request was likewise granted by the Sandiganbayan. A Subpoena Duces Tecum/Ad Testificandum was accordingly issued on January 24, 2003.

Petitioner, claiming to have learned from the media that the Special Prosecution Panel had requested for the issuance of subpoenas for the examination of bank accounts belonging to him, attended the hearing of the case on January 27, 2003 and filed before the Sandiganbayan a letter of even date expressing his concerns as follows, quoted *verbatim*:

Your Honors:

It is with much respect that I write this court relative to the concern of subpoenaing **the undersigned's bank account** which I have learned through the media.

I am sure the prosecution is aware of our banking secrecy laws everyone supposed to observe. But, instead of prosecuting those who may have breached such laws, it seems it is even going to use supposed evidence which I have reason to believe could only have been illegally obtained.

The prosecution was not content with a general request. It even lists and identifies specific documents meaning someone else in the bank illegally released confidential information.

If this can be done to me, it can happen to anyone. Not that anything can still shock our family. Nor that I have anything to hide. Your Honors.

But, I am not a lawyer and need time to consult one on a situation that affects every bank depositor in the country and should interest the bank itself, the Bangko Sentral ng Pilipinas, and maybe the Ombudsman himself, who may want to investigate, not exploit, the serious breach that can only harm the economy, a consequence that may have been overlooked. There appears to have been deplorable connivance.

x x x x

I hope and pray, Your Honors, that I will be given time to retain the services of a lawyer to help me protect my rights and those of every banking depositor. But the one I have in mind is out of the country right now.

May I, therefore, ask your Honors, that in the meantime, the issuance of the subpoena be held in abeyance for at least ten (10) days to enable me to take appropriate legal steps in connection with the prosecution's request for the issuance of subpoena concerning **my accounts**. (Emphasis supplied)

From the present petition, it is gathered that the "accounts" referred to by petitioner in his above-quoted letter are Trust Account No. 858 and Savings Account No. 0116-17345-9.^[2]

In open court, the Special Division of the Sandiganbayan, through Associate Justice Edilberto Sandoval, advised petitioner that his remedy was to file a motion to quash, for which he was given up to 12:00 noon the following day, January 28, 2003.

Petitioner, unassisted by counsel, thus filed on January 28, 2003 a Motion to Quash Subpoena Duces Tecum/Ad Testificandum praying that the subpoenas previously issued to the President of the EIB dated January 21 and January 24, 2003 be quashed.^[3]

In his Motion to Quash, petitioner claimed that his bank accounts are covered by R.A. No. 1405 (The Secrecy of Bank Deposits Law) and do not fall under any of the exceptions stated therein. He further claimed that the specific identification of documents in the questioned subpoenas, including details on dates and amounts, could only have been made possible by an earlier illegal disclosure thereof by the EIB and the Philippine Deposit Insurance Corporation (PDIC) in its capacity as receiver of the then Urban Bank.

The disclosure being illegal, petitioner concluded, the prosecution in the case may not be allowed to make use of the information.

Before the Motion to Quash was resolved by the Sandiganbayan, the prosecution filed another Request for the Issuance of Subpoena Duces Tecum/Ad Testificandum dated January 31, 2003, again to direct the President of the EIB to produce, on the hearings scheduled on February 3 and 5, 2003, the same documents subject of the January 21 and 24, 2003 subpoenas with the exception of the Bank of Commerce MC #0256254 in the amount of P2,000,000 as Bank of Commerce MC #0256256 in the amount of P200,000,000 was instead requested. Moreover, the request covered the following additional documents:

IV. For Savings Account No. 1701-00646-1:

1. Account Opening Forms;
2. Specimen Signature Card/s; and
3. Statements of Account.

The prosecution also filed a Request for the Issuance of Subpoena Duces Tecum/Ad Testificandum bearing the same date, January 31, 2003, directed to Aurora C. Baldoz, Vice President-CR-II of the PDIC for her to produce the following documents on the scheduled hearings on February 3 and 5, 2003:

1. Letter of authority dated November 23, 1999 re: SPAN [Special Private Account Number] 858;
2. Letter of authority dated January 29, 2000 re: SPAN 858;
3. Letter of authority dated April 24, 2000 re: SPAN 858;
4. Urban Bank check no. 052092 dated April 24, 2000 for the amount of P36, 572, 315.43;
5. Urban Bank check no. 052093 dated April 24, 2000 for the amount of P107,191,780.85; and
6. Signature Card Savings Account No. 0116-17345-9. (Underscoring supplied)

The subpoenas prayed for in both requests were issued by the Sandiganbayan on January 31, 2003.

On February 7, 2003, petitioner, this time assisted by counsel, filed an Urgent Motion to Quash Subpoenae Duces Tecum/Ad Testificandum praying that the subpoena dated January 31, 2003 directed to Aurora Baldoz be quashed for the same reasons which he cited in the Motion to Quash^[4] he had earlier filed.

On the same day, **February 7, 2003**, the Sandiganbayan issued a Resolution denying petitioner's Motion to Quash Subpoenae Duces Tecum/Ad Testificandum dated January 28, 2003.

Subsequently or on **February 12, 2003**, the Sandiganbayan issued a Resolution denying petitioner's Urgent Motion to Quash Subpoena Duces Tecum/Ad Testificandum dated February 7, 2003.

Petitioner's Motion for Reconsideration dated February 24, 2003 seeking a reconsideration of the Resolutions of February 7 and 12, 2003 having been denied

by Resolution of **March 11, 2003**, petitioner filed the present petition.

Raised as issues are:

1. Whether petitioner's Trust Account No. 858 is covered by the term "deposit" as used in R.A. 1405;
2. Whether petitioner's Trust Account No. 858 and Savings Account No. 0116-17345-9 are excepted from the protection of R.A. 1405; and
3. Whether the "extremely-detailed" information contained in the Special Prosecution Panel's requests for subpoena was obtained through a prior illegal disclosure of petitioner's bank accounts, in violation of the "fruit of the poisonous tree" doctrine.

Respondent People posits that Trust Account No. 858^[5] may be inquired into, not merely because it falls under the exceptions to the coverage of R.A. 1405, but because it is not even contemplated therein. For, to respondent People, the law applies only to "deposits" which strictly means the money delivered to the bank by which a creditor-debtor relationship is created between the depositor and the bank.

The contention that trust accounts are not covered by the term "deposits," as used in R.A. 1405, by the mere fact that they do not entail a creditor-debtor relationship between the trustor and the bank, does not lie. An examination of the law shows that the term "deposits" used therein is to be understood broadly and not limited only to accounts which give rise to a creditor-debtor relationship between the depositor and the bank.

The policy behind the law is laid down in Section 1:

SECTION 1. It is hereby declared to be the policy of the Government to give encouragement to the people to deposit their money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country. (Underscoring supplied)

If the money deposited under an account may be used by banks for authorized loans to third persons, then such account, regardless of whether it creates a creditor-debtor relationship between the depositor and the bank, falls under the category of accounts which the law precisely seeks to protect for the purpose of boosting the economic development of the country.

Trust Account No. 858 is, without doubt, one such account. The Trust Agreement between petitioner and Urban Bank provides that the trust account covers "deposit, placement or investment of funds" by Urban Bank for and in behalf of petitioner.^[6] The money deposited under Trust Account No. 858, was, therefore, intended not merely to remain with the bank but to be invested by it elsewhere. To hold that this type of account is not protected by R.A. 1405 would encourage private hoarding of funds that could otherwise be invested by banks in other ventures, contrary to the policy behind the law.