

THIRD DIVISION

[G.R. NO. 141796, June 15, 2005]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT,
PETITIONER, VS. SANDIGANBAYAN (4TH DIVISION) AND
POTENCIANO T. ILUSORIO, SUBSTITUTED BY MA. ERLINDA
ILUSORIO BILDNER, RESPONDENTS.**

G.R. NO. 141804

**INDEPENDENT REALTY CORPORATION AND MID-PASIG LAND
DEVELOPMENT CORPORATION, PETITIONERS, VS.
SANDIGANBAYAN (4TH DIVISION) AND POTENCIANO T.
ILUSORIO, SUBSTITUTED BY MA. ERLINDA ILUSORIO BILDNER,
RESPONDENTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us for resolution are two (2) consolidated petitions for *certiorari*^[1] assailing the Resolution^[2] dated December 20, 1999 of the Sandiganbayan in Civil Case No. 0009, entitled "*Republic of the Philippines, plaintiff, versus Jose L. Africa, Manuel H. Nieto, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile, and Potenciano Ilusorio.*" The Resolution denied the above-named petitioners' separate motions to vacate the Sandiganbayan's Order dated June 8, 1998 approving the Compromise Agreement entered into between the Presidential Commission on Good Government (PCGG) and Potenciano Ilusorio.

The antecedent facts are as follows:

Immediately after the people power revolution on February 25, 1986 at EDSA, then President Corazon C. Aquino issued Executive Order No. 1 dated February 28, 1986 creating the Presidential Commission on Good Government (PCGG). The task of the PCGG is to "assist the President in ... the recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover or sequestration of all business enterprises and entities owned or controlled by them during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationships."^[3]

Subsequently, Jose Y. Campos, "a confessed crony of former President Ferdinand E. Marcos," voluntarily surrendered or turned over to the PCGG the properties, assets and corporations he held in trust for the deposed President. Among the corporations he surrendered were the Independent Realty Corporation and the Mid-

Pasig Land Development Corporation, now petitioners in G.R. No. 141804.

On July 22, 1987, the Republic of the Philippines (now petitioner in G.R. No. 141796), represented by the PCGG and assisted by the Solicitor General, filed with the Sandiganbayan a complaint^[4] for "reconveyance, reversion, accounting, restitution and damages," docketed as SB Civil Case No. 0009. Impleaded as defendants were Jose L. Africa, Manuel H. Nieto, Jr., former President Ferdinand E. Marcos, former First Lady Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile and the late Potenciano Ilusorio (now respondent).

The complaint alleged *inter alia* that the defendants "acted in collaboration with each other as dummies, nominees and/or agents of defendants Ferdinand E. Marcos, Imelda R. Marcos and Ferdinand R. Marcos, Jr. in several corporations, such as the Mid-Pasig Land Development Corporation (MLDC) and Independent Realty Corporation (IRC) which, through manipulations by said defendants, appropriated a substantial portion of the shareholdings in Philippine Overseas Telecommunications Corporation (POTC)–Philippine Communications Satellite Corporation (PHILCOMSAT) held by the late Honorio Poblador, Jr., Jose Valdez and Francisco Reyes, thereby further advancing defendants' scheme to monopolize the telecommunications industry."^[5] Through their illegal acts, the defendants acquired ill-gotten wealth. Their acts constitute "breach of public trust and the law, abuse of rights and power, and unjust enrichment." Their ill-gotten wealth, real and personal, "are deemed to have been acquired (by them) for the benefit of the plaintiff (Republic) and are, therefore, impressed with constructive trust in favor of (the latter) and the Filipino people."^[6] The complaint thus prayed for (a) the reconveyance/reversion to the Republic of all the funds, properties and assets illegally acquired by the defendants, or their equivalent value; (b) accounting; and (c) damages.

Traversing the complaint, respondent Potenciano Ilusorio, in his *Amended Answer with Cross-Claim (against the Marcoses) and Third-Party Complaint (against MLDC and IRC)*, denied that he acquired ill-gotten wealth and unjustly enriched himself by conspiring with any of the defendants in committing a breach of public trust or abuse of right or power, since "he has never held any public office nor has he been a government employee." He further denied being a dummy or agent of the Marcoses. He interposed the affirmative defense that he owned 5,400 POTC shares of stock, having acquired them through his honest toil. However, "he incurred the ire of Imelda Marcos," hence, the Marcos spouses took from him the said shares through threats and intimidation, without any valuable consideration, and placed them in the names of their alter egos, namely: the IRC – 3,644 shares; the MLDC – 1,755 shares; and Ferdinand Marcos, Jr. – 1 share. He thus became "the hapless victim of injustice." He prayed that the said shares be returned to him, together with their corresponding dividends.

For failure to answer respondent Ilusorio's third-party complaint, despite notice, the Sandiganbayan declared petitioner MLDC in default.^[7] Its motion to lift the order of default was denied.

For its part, petitioner IRC filed its answer^[8] to the third-party complaint, admitting *inter alia* that it is "now owned by the Government" after it was turned over to the latter by Jose Y. Campos; and that "the 3,644 POTC shares of stock under the name of Independent Realty Corporation is part and parcel of the ill-gotten wealth of the

deposed President Marcos and his family, which were acquired during his incumbency under the circumstances alleged in the plaintiff's complaint." Being no longer the owner of said shares, petitioner IRC prayed for the dismissal of the third-party complaint for lack of cause of action.^[9]

On June 28, 1996, the PCGG, acting in behalf of petitioners Republic, IRC and MLDC, entered into a Compromise Agreement with respondent Ilusorio.^[10] The agreement was later approved by then President Fidel V. Ramos. In a marginal note dated October 5, 1996, he directed its submission to the Sandiganbayan for approval.^[11] The pertinent portions of the Compromise Agreement read:

"WHEREAS, this Compromise Agreement covers the full, comprehensive and final settlement of the claims of the GOVERNMENT against ILUSORIO in Civil Case No. SB-009, pending before the Third Division of the Sandiganbayan; the Cross-Claim involving several properties located in Parañaque, Metro Manila; and, the Third-Party Complaint filed by ILUSORIO, in the same case, involving the Five Thousand Four Hundred (5,400) shares of stocks registered in the names of Mid-Pasig Land Development Corporation (MLDC) and Independent Realty Corporation (IRC), respectively, in the Philippine Overseas Telecommunications Corporation (POTC);

WHEREAS, the GOVERNMENT and ILUSORIO desiring **to avoid a costly and protracted litigation, motivated by their desire to effect the proper restitution of properties, assets and other interests to their rightful owners, benefit the Filipino people through an efficient and economical telecommunications system**, and in order that they be able to freely use their respective properties, assets and other interests in the peaceful and normal pursuit of their legitimate endeavors, **have decided to withdraw their mutual claims and counterclaims in the aforementioned case;**

NOW, THEREFORE, for and in consideration of the foregoing premises and the covenants hereafter contained, the GOVERNMENT and ILUSORIO have mutually agreed on a settlement, as they hereby agree, on the following:

1.0 Cession and Concessions

1.1 **ILUSORIO recognizes the right and ownership of the GOVERNMENT over Four Thousand Seven Hundred Twenty Seven (4,727) shares of stocks in POTC under the names of IRC and MLDC, respectively, and the GOVERNMENT recognizes the right and ownership of ILUSORIO over Six Hundred Seventy Three (673) shares.**

1.2 **ILUSORIO waives in favor of the GOVERNMENT all his claims, rights and interests to the cash dividends appertaining as of the signing of this Agreement to all the shares of stocks mentioned in par. 1.1, including those appertaining to the Six Hundred Seventy Three (673) shares.**

1.3 The GOVERNMENT and ILUSORIO shall have a right of first refusal over the transfer of their respective shares covered by this Compromise Agreement in POTC and in the Philippine Communications Satellite Corporation (PHILCOMSAT).

1.4 With respect to the houses and lots and all improvements thereon covered by Transfer Certificates of Title Nos. S-54804, S-54857 and S-54806, respectively, all of the Register of Deeds for Metro Manila, District IV, located in Parañaque, Metro Manila, which were turned over by Mr. Jose Y. Campos to the GOVERNMENT, ILUSORIO hereby waives any and all claims, rights and interests he has over such properties.

1.5 The GOVERNMENT and ILUSORIO hereby waive any and all claims each one may have against the other with respect to other properties, assets and interests involved in Civil Case No. SB-009 and such other properties, assets and interests as may hereafter be identified.

1.6 The GOVERNMENT and ILUSORIO recognize this Compromise Agreement as full, comprehensive and final settlement of their claims and counterclaims against each other, and hereby renounce any interest in all past, present and future cases and investigations.

1.7 ILUSORIO shall defend the right of the GOVERNMENT over the assets abovementioned.

1.8 ILUSORIO undertakes to fully cooperate with the GOVERNMENT/Presidential Commission on Good Government in all investigations, criminal prosecutions, and civil actions, whether in the Philippines or abroad, in connection with the recovery of ill-gotten wealth of Ferdinand E. Marcos and Imelda R. Marcos, members of their families and all the Marcos cronies against whom the GOVERNMENT/Presidential Commission on Good Government is currently suing or may sue to recover ill-gotten wealth, including giving evidence for the GOVERNMENT/Presidential Commission on Good Government in the aforesaid cases.

2.0 Mechanics for Implementation

The GOVERNMENT and ILUSORIO shall x x x file with the Sandiganbayan the appropriate Joint Motion for the approval of this Compromise Agreement: for the GOVERNMENT to drop ILUSORIO as defendant in Civil Case No. SB-009; for ILUSORIO to drop his Cross-Complaint; for ILUSORIO to drop his Third-Party Complaint; and, for ILUSORIO to drop his Motion for Injunction and Contempt in Civil Case No. SB-009 against the GOVERNMENT, its officers and agents involved in the exercise by the GOVERNMENT of its preemptive rights over shares in Oriental Petroleum and Minerals Corporation (OPMC).

x x x

3.0 Cooperation in Preservation/Recovery Efforts

The GOVERNMENT and ILUSORIO hereby undertake to cooperate with each other in the preservation or recovery of properties and businesses, including a joint action or defense in the enforcement or resistance, as the case may be, of claims related to, involved in, or connected with, this Compromise Agreement.

4.0 Warranty and Authority

Hermilo R. Rosal, whose signature is affixed hereto in a representative capacity, and Potenciano T. Ilusorio represent and warrant that they are duly authorized to execute this Compromise Agreement for themselves and on behalf of, and to bind, the entities on whose behalf their signatures are affixed.

5.0 Further Acts or Documents

The GOVERNMENT and ILUSORIO agree to execute and perform such other and further acts and authorizations, including the execution and delivery of such other and further documents as may be reasonably necessary to carry out the, provisions of this Compromise Agreement.

6.0 Binding Effect

All provisions of this Compromise Agreement shall extend and be binding on the GOVERNMENT and ILUSORIO and on each of their respective officers, employees, directors, agents, heirs, executors, administrators, legal successors and assigns.

7.0 Effectivity

This Compromise Agreement shall be effective immediately upon its approval by the Sandiganbayan in accordance with existing law and rules.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures on the date and at the place abovementioned.

REPUBLIC OF THE PHILIPPINES

By:

(SGD) HERMILO R. ROSAL
Commissioner
Presidential Commission
On Good Government

(SGD) POTENCIANO T. ILUSORIO^[12] (underscoring ours)