

EN BANC

[G.R. No. 104768, July 21, 2003]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN, MAJOR GENERAL JOSEPHUS Q. RAMAS AND
ELIZABETH DIMAANO, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

Before this Court is a petition for review on *certiorari* seeking to set aside the Resolutions of the Sandiganbayan (First Division)^[1] dated 18 November 1991 and 25 March 1992 in Civil Case No. 0037. The first Resolution dismissed petitioner's Amended Complaint and ordered the return of the confiscated items to respondent Elizabeth Dimaano, while the second Resolution denied petitioner's Motion for Reconsideration. Petitioner prays for the grant of the reliefs sought in its Amended Complaint, or in the alternative, for the remand of this case to the Sandiganbayan (First Division) for further proceedings allowing petitioner to complete the presentation of its evidence.

Antecedent Facts

Immediately upon her assumption to office following the successful EDSA Revolution, then President Corazon C. Aquino issued Executive Order No. 1 ("EO No. 1") creating the Presidential Commission on Good Government ("PCGG"). EO No. 1 primarily tasked the PCGG to recover all ill-gotten wealth of former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates. EO No. 1 vested the PCGG with the power "(a) to conduct investigation as may be necessary in order to accomplish and carry out the purposes of this order" and the power "(h) to promulgate such rules and regulations as may be necessary to carry out the purpose of this order." Accordingly, the PCGG, through its then Chairman Jovito R. Salonga, created an AFP Anti-Graft Board ("AFP Board") tasked to investigate reports of unexplained wealth and corrupt practices by AFP personnel, whether in the active service or retired.^[2]

Based on its mandate, the AFP Board investigated various reports of alleged unexplained wealth of respondent Major General Josephus Q. Ramas ("Ramas"). On 27 July 1987, the AFP Board issued a Resolution on its findings and recommendation on the reported unexplained wealth of Ramas. The relevant part of the Resolution reads:

III. FINDINGS and EVALUATION:

Evidence in the record showed that respondent is the owner of a house

and lot located at 15-Yakan St., La Vista, Quezon City. He is also the owner of a house and lot located in Cebu City. The lot has an area of 3,327 square meters.

The value of the property located in Quezon City may be estimated modestly at P700,000.00.

The equipment/items and communication facilities which were found in the premises of Elizabeth Dimaano and were confiscated by elements of the PC Command of Batangas were all covered by invoice receipt in the name of CAPT. EFREN SALIDO, RSO Command Coy, MSC, PA. These items could not have been in the possession of Elizabeth Dimaano if not given for her use by respondent Commanding General of the Philippine Army.

Aside from the military equipment/items and communications equipment, the raiding team was also able to confiscate money in the amount of P2,870,000.00 and \$50,000 US Dollars in the house of Elizabeth Dimaano on 3 March 1986.

Affidavits of members of the Military Security Unit, Military Security Command, Philippine Army, stationed at Camp Eldridge, Los Baños, Laguna, disclosed that Elizabeth Dimaano is the mistress of respondent. That respondent usually goes and stays and sleeps in the alleged house of Elizabeth Dimaano in Barangay Tengga, Itaas, Batangas City and when he arrives, Elizabeth Dimaano embraces and kisses respondent. That on February 25, 1986, a person who rode in a car went to the residence of Elizabeth Dimaano with four (4) attache cases filled with money and owned by MGen Ramas.

Sworn statement in the record disclosed also that Elizabeth Dimaano had no visible means of income and is supported by respondent for she was formerly a mere secretary.

Taking *in toto* the evidence, Elizabeth Dimaano could not have used the military equipment/items seized in her house on March 3, 1986 without the consent of respondent, he being the Commanding General of the Philippine Army. It is also impossible for Elizabeth Dimaano to claim that she owns the P2,870,000.00 and \$50,000 US Dollars for she had no visible source of income.

This money was never declared in the Statement of Assets and Liabilities of respondent. There was an intention to cover the existence of these money because these are all ill-gotten and unexplained wealth. Were it not for the affidavits of the members of the Military Security Unit assigned at Camp Eldridge, Los Baños, Laguna, the existence and ownership of these money would have never been known.

The Statement of Assets and Liabilities of respondent were also submitted for scrutiny and analysis by the Board's consultant. Although the amount of P2,870,000.00 and \$50,000 US Dollars were not included, still it was disclosed that respondent has an unexplained wealth of

P104,134. 60.

IV. CONCLUSION:

In view of the foregoing, the Board finds that a prima facie case exists against respondent for ill-gotten and unexplained wealth in the amount of P2,974,134.00 and \$50,000 US Dollars.

V. RECOMMENDATION:

Wherefore it is recommended that Maj. Gen. Josephus Q. Ramas (ret.) be prosecuted and tried for violation of RA 3019, as amended, otherwise known as "Anti-Graft and Corrupt Practices Act" and RA 1379, as amended, otherwise known as "The Act for the Forfeiture of Unlawfully Acquired Property."^[3]

Thus, on 1 August 1987, the PCGG filed a petition for forfeiture under Republic Act No. 1379 ("RA No. 1379")^[4] against Ramas.

Before Ramas could answer the petition, then Solicitor General Francisco I. Chavez filed an Amended Complaint naming the Republic of the Philippines ("petitioner"), represented by the PCGG, as plaintiff and Ramas as defendant. The Amended Complaint also impleaded Elizabeth Dimaano ("Dimaano") as co-defendant.

The Amended Complaint alleged that Ramas was the Commanding General of the Philippine Army until 1986. On the other hand, Dimaano was a confidential agent of the Military Security Unit, Philippine Army, assigned as a clerk-typist at the office of Ramas from 1 January 1978 to February 1979. The Amended Complaint further alleged that Ramas "acquired funds, assets and properties manifestly out of proportion to his salary as an army officer and his other income from legitimately acquired property by taking undue advantage of his public office and/or using his power, authority and influence as such officer of the Armed Forces of the Philippines and as a subordinate and close associate of the deposed President Ferdinand Marcos."^[5]

The Amended Complaint also alleged that the AFP Board, after a previous inquiry, found reasonable ground to believe that respondents have violated RA No. 1379.^[6] The Amended Complaint prayed for, among others, the forfeiture of respondents' properties, funds and equipment in favor of the State.

Ramas filed an Answer with Special and/or Affirmative Defenses and Compulsory Counterclaim to the Amended Complaint. In his Answer, Ramas contended that his property consisted only of a residential house at La Vista Subdivision, Quezon City, valued at P700,000, which was not out of proportion to his salary and other legitimate income. He denied ownership of any mansion in Cebu City and the cash, communications equipment and other items confiscated from the house of Dimaano.

Dimaano filed her own Answer to the Amended Complaint. Admitting her employment as a clerk-typist in the office of Ramas from January-November 1978 only, Dimaano claimed ownership of the monies, communications equipment, jewelry and land titles taken from her house by the Philippine Constabulary raiding

team.

After termination of the pre-trial,^[7] the court set the case for trial on the merits on 9-11 November 1988.

On 9 November 1988, petitioner asked for a deferment of the hearing due to its lack of preparation for trial and the absence of witnesses and vital documents to support its case. The court reset the hearing to 17 and 18 April 1989.

On 13 April 1989, petitioner filed a motion for leave to amend the complaint in order "to charge the delinquent properties with being subject to forfeiture as having been unlawfully acquired by defendant Dimaano alone x x x."^[8]

Nevertheless, in an order dated 17 April 1989, the Sandiganbayan proceeded with petitioner's presentation of evidence on the ground that the motion for leave to amend complaint did not state when petitioner would file the amended complaint. The Sandiganbayan further stated that the subject matter of the amended complaint was on its face vague and not related to the existing complaint. The Sandiganbayan also held that due to the time that the case had been pending in court, petitioner should proceed to present its evidence.

After presenting only three witnesses, petitioner asked for a postponement of the trial.

On 28 September 1989, during the continuation of the trial, petitioner manifested its inability to proceed to trial because of the absence of other witnesses or lack of further evidence to present. Instead, petitioner reiterated its motion to amend the complaint to conform to the evidence already presented or to change the averments to show that Dimaano alone unlawfully acquired the monies or properties subject of the forfeiture.

The Sandiganbayan noted that petitioner had already delayed the case for over a year mainly because of its many postponements. Moreover, petitioner would want the case to revert to its preliminary stage when in fact the case had long been ready for trial. The Sandiganbayan ordered petitioner to prepare for presentation of its additional evidence, if any.

During the trial on 23 March 1990, petitioner again admitted its inability to present further evidence. Giving petitioner one more chance to present further evidence or to amend the complaint to conform to its evidence, the Sandiganbayan reset the trial to 18 May 1990. The Sandiganbayan, however, hinted that the re-setting was without prejudice to any action that private respondents might take under the circumstances.

However, on 18 May 1990, petitioner again expressed its inability to proceed to trial because it had no further evidence to present. Again, in the interest of justice, the Sandiganbayan granted petitioner 60 days within which to file an appropriate pleading. The Sandiganbayan, however, warned petitioner that failure to act would constrain the court to take drastic action.

Private respondents then filed their motions to dismiss based on ***Republic v.***

Migrino.^[9] The Court held in **Migrino** that the PCGG does not have jurisdiction to investigate and prosecute military officers by reason of mere position held without a showing that they are "subordinates" of former President Marcos.

On 18 November 1991, the Sandiganbayan rendered a resolution, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered dismissing the Amended Complaint, without pronouncement as to costs. The counterclaims are likewise dismissed for lack of merit, but the confiscated sum of money, communications equipment, jewelry and land titles are ordered returned to Elizabeth Dimaano.

The records of this case are hereby remanded and referred to the Hon. Ombudsman, who has primary jurisdiction over the forfeiture cases under R.A. No. 1379, for such appropriate action as the evidence warrants. This case is also referred to the Commissioner of the Bureau of Internal Revenue for a determination of any tax liability of respondent Elizabeth Dimaano in connection herewith.

SO ORDERED.

On 4 December 1991, petitioner filed its Motion for Reconsideration.

In answer to the Motion for Reconsideration, private respondents filed a Joint Comment/Opposition to which petitioner filed its Reply on 10 January 1992.

On 25 March 1992, the Sandiganbayan rendered a Resolution denying the Motion for Reconsideration.

Ruling of the Sandiganbayan

The Sandiganbayan dismissed the Amended Complaint on the following grounds:

- (1.) The actions taken by the PCGG are not in accordance with the rulings of the Supreme Court in *Cruz, Jr. v. Sandiganbayan*^[10] and *Republic v. Migrino*^[11] which involve the same issues.
- (2.) No previous inquiry similar to preliminary investigations in criminal cases was conducted against Ramas and Dimaano.
- (3.) The evidence adduced against Ramas does not constitute a *prima facie* case against him.
- (4.) There was an illegal search and seizure of the items confiscated.

The Issues

Petitioner raises the following issues:

- A. RESPONDENT COURT SERIOUSLY ERRED IN CONCLUDING THAT PETITIONER'S EVIDENCE CANNOT MAKE A CASE FOR FORFEITURE