

EN BANC

[G.R. No. 152154, July 15, 2003]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HONORABLE SANDIGANBAYAN (SPECIAL FIRST DIVISION), FERDINAND E. MARCOS (REPRESENTED BY HIS ESTATE/HEIRS: IMELDA R. MARCOS, MARIA IMELDA [IMEE] MARCOS-MANOTOC, FERDINAND R. MARCOS, JR. AND IRENE MARCOS-ARANETA) AND IMELDA ROMUALDEZ MARCOS, RESPONDENTS.

DECISION

CORONA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to (1) set aside the Resolution dated January 31, 2002 issued by the Special First Division of the Sandiganbayan in Civil Case No. 0141 entitled *Republic of the Philippines vs. Ferdinand E. Marcos, et. al.*, and (2) reinstate its earlier decision dated September 19, 2000 which forfeited in favor of petitioner Republic of the Philippines (Republic) the amount held in escrow in the Philippine National Bank (PNB) in the aggregate amount of US\$658,175,373.60 as of January 31, 2002.

BACKGROUND OF THE CASE

On December 17, 1991, petitioner Republic, through the Presidential Commission on Good Government (PCGG), represented by the Office of the Solicitor General (OSG), filed a petition for forfeiture before the Sandiganbayan, docketed as Civil Case No. 0141 entitled *Republic of the Philippines vs. Ferdinand E. Marcos, represented by his Estate/Heirs and Imelda R. Marcos*, pursuant to RA 1379^[1] in relation to Executive Order Nos. 1,^[2] 2,^[3] 14^[4] and 14-A.^[5]

In said case, petitioner sought the declaration of the aggregate amount of US\$356 million (now estimated to be more than US\$658 million inclusive of interest) deposited in escrow in the PNB, as ill-gotten wealth. The funds were previously held by the following five account groups, using various foreign foundations in certain Swiss banks:

- (1) Azio-Verso-Vibur Foundation accounts;
- (2) Xandy-Wintrop: Charis-Scolari-Valamo-Spinus- Avertina Foundation accounts;
- (3) Trinidad-Rayby-Palmy Foundation accounts;
- (4) Rosalys-Aguamina Foundation accounts and
- (5) Maler Foundation accounts.

In addition, the petition sought the forfeiture of US\$25 million and US\$5 million in treasury notes which exceeded the Marcos couple's salaries, other lawful income as well as income from legitimately acquired property. The treasury notes are frozen at the Central Bank of the Philippines, now Bangko Sentral ng Pilipinas, by virtue of the freeze order issued by the PCGG.

On October 18, 1993, respondents Imelda R. Marcos, Maria Imelda M. Manotoc, Irene M. Araneta and Ferdinand R. Marcos, Jr. filed their answer.

Before the case was set for pre-trial, a General Agreement and the Supplemental Agreements^[6] dated December 28, 1993 were executed by the Marcos children and then PCGG Chairman Magtanggol Gunigundo for a global settlement of the assets of the Marcos family. Subsequently, respondent Marcos children filed a motion dated December 7, 1995 for the approval of said agreements and for the enforcement thereof.

The General Agreement/Supplemental Agreements sought to identify, collate, cause the inventory of and distribute all assets presumed to be owned by the Marcos family under the conditions contained therein. The aforementioned General Agreement specified in one of its premises or "whereas clauses" the fact that petitioner "obtained a judgment from the Swiss Federal Tribunal on December 21, 1990, that the Three Hundred Fifty-six Million U.S. dollars (US\$356 million) belongs in principle to the Republic of the Philippines provided certain conditionalities are met x x x." The said decision of the Swiss Federal Supreme Court affirmed the decision of Zurich District Attorney Peter Consandey, granting petitioner's request for legal assistance.^[7] Consandey declared the various deposits in the name of the enumerated foundations to be of illegal provenance and ordered that they be frozen to await the final verdict in favor of the parties entitled to restitution.

Hearings were conducted by the Sandiganbayan on the motion to approve the General/Supplemental Agreements. Respondent Ferdinand, Jr. was presented as witness for the purpose of establishing the partial implementation of said agreements.

On October 18, 1996, petitioner filed a motion for summary judgment and/or judgment on the pleadings. Respondent Mrs. Marcos filed her opposition thereto which was later adopted by respondents Mrs. Manotoc, Mrs. Araneta and Ferdinand, Jr.

In its resolution dated November 20, 1997, the Sandiganbayan denied petitioner's motion for summary judgment and/or judgment on the pleadings on the ground that the motion to approve the compromise agreement "(took) precedence over the motion for summary judgment."

Respondent Mrs. Marcos filed a manifestation on May 26, 1998 claiming she was not a party to the motion for approval of the Compromise Agreement and that she owned 90% of the funds with the remaining 10% belonging to the Marcos estate.

Meanwhile, on August 10, 1995, petitioner filed with the District Attorney in Zurich, Switzerland, an additional request for the immediate transfer of the deposits to an escrow account in the PNB. The request was granted. On appeal by the Marcoses,

the Swiss Federal Supreme Court, in a decision dated December 10, 1997, upheld the ruling of the District Attorney of Zurich granting the request for the transfer of the funds. In 1998, the funds were remitted to the Philippines in escrow. Subsequently, respondent Marcos children moved that the funds be placed in *custodia legis* because the deposit in escrow in the PNB was allegedly in danger of dissipation by petitioner. The Sandiganbayan, in its resolution dated September 8, 1998, granted the motion.

After the pre-trial and the issuance of the pre-trial order and supplemental pre-trial order dated October 28, 1999 and January 21, 2000, respectively, the case was set for trial. After several resettings, petitioner, on March 10, 2000, filed another motion for summary judgment pertaining to the forfeiture of the US\$356 million, based on the following grounds:

I

THE ESSENTIAL FACTS WHICH WARRANT THE FORFEITURE OF THE FUNDS SUBJECT OF THE PETITION UNDER R.A. NO. 1379 ARE ADMITTED BY RESPONDENTS IN THEIR PLEADINGS AND OTHER SUBMISSIONS MADE IN THE COURSE OF THE PROCEEDING.

II

RESPONDENTS' ADMISSION MADE DURING THE PRE-TRIAL THAT THEY DO NOT HAVE ANY INTEREST OR OWNERSHIP OVER THE FUNDS SUBJECT OF THE ACTION FOR FORFEITURE TENDERS NO GENUINE ISSUE OR CONTROVERSY AS TO ANY MATERIAL FACT IN THE PRESENT ACTION, THUS WARRANTING THE RENDITION OF SUMMARY JUDGMENT.

[8]

Petitioner contended that, after the pre-trial conference, certain facts were established, warranting a summary judgment on the funds sought to be forfeited.

Respondent Mrs. Marcos filed her opposition to the petitioner's motion for summary judgment, which opposition was later adopted by her co-respondents Mrs. Manotoc, Mrs. Araneta and Ferdinand, Jr.

On March 24, 2000, a hearing on the motion for summary judgment was conducted.

In a decision^[9] dated September 19, 2000, the Sandiganbayan granted petitioner's motion for summary judgment:

CONCLUSION

There is no issue of fact which calls for the presentation of evidence.

The Motion for Summary Judgment is hereby granted.

The Swiss deposits which were transmitted to and now held in escrow at the PNB are deemed unlawfully acquired as ill-gotten wealth.

DISPOSITION

WHEREFORE, judgment is hereby rendered in favor of the Republic of the Philippines and against the respondents, declaring the Swiss deposits which were transferred to and now deposited in escrow at the Philippine National Bank in the total aggregate value equivalent to US\$627,608,544.95 as of August 31, 2000 together with the increments thereof forfeited in favor of the State.^[10]

Respondent Mrs. Marcos filed a motion for reconsideration dated September 26, 2000. Likewise, Mrs. Manotoc and Ferdinand, Jr. filed their own motion for reconsideration dated October 5, 2000. Mrs. Araneta filed a manifestation dated October 4, 2000 adopting the motion for reconsideration of Mrs. Marcos, Mrs. Manotoc and Ferdinand, Jr.

Subsequently, petitioner filed its opposition thereto.

In a resolution^[11] dated January 31, 2002, the Sandiganbayan reversed its September 19, 2000 decision, thus denying petitioner's motion for summary judgment:

CONCLUSION

In sum, the evidence offered for summary judgment of the case did not prove that the money in the Swiss Banks belonged to the Marcos spouses because no legal proof exists in the record as to the ownership by the Marcoses of the funds in escrow from the Swiss Banks.

The basis for the forfeiture in favor of the government cannot be deemed to have been established and our judgment thereon, perforce, must also have been without basis.

WHEREFORE, the decision of this Court dated September 19, 2000 is reconsidered and set aside, and this case is now being set for further proceedings.^[12]

Hence, the instant petition. In filing the same, petitioner argues that the Sandiganbayan, in reversing its September 19, 2000 decision, committed grave abuse of discretion amounting to lack or excess of jurisdiction considering that --

I

PETITIONER WAS ABLE TO PROVE ITS CASE IN ACCORDANCE WITH THE REQUISITES OF SECTIONS 2 AND 3 OF R.A. NO. 1379:

A. PRIVATE RESPONDENTS CATEGORICALLY ADMITTED NOT ONLY THE PERSONAL CIRCUMSTANCES OF FERDINAND E. MARCOS AND IMELDA R. MARCOS AS PUBLIC OFFICIALS BUT ALSO THE EXTENT OF THEIR SALARIES AS SUCH PUBLIC OFFICIALS, WHO UNDER THE CONSTITUTION, WERE PROHIBITED FROM ENGAGING IN THE MANAGEMENT OF FOUNDATIONS.

B. PRIVATE RESPONDENTS ALSO ADMITTED THE EXISTENCE OF THE SWISS DEPOSITS AND THEIR OWNERSHIP THEREOF:

1. ADMISSIONS IN PRIVATE RESPONDENTS' ANSWER;
2. ADMISSION IN THE GENERAL / SUPPLEMENTAL AGREEMENTS THEY SIGNED AND SOUGHT TO IMPLEMENT;
3. ADMISSION IN A MANIFESTATION OF PRIVATE RESPONDENT IMELDA R. MARCOS AND IN THE MOTION TO PLACE THE *RES IN CUSTODIA LEGIS*; AND
4. ADMISSION IN THE UNDERTAKING TO PAY THE HUMAN RIGHTS VICTIMS.

C. PETITIONER HAS PROVED THE EXTENT OF THE LEGITIMATE INCOME OF FERDINAND E. MARCOS AND IMELDA R. MARCOS AS PUBLIC OFFICIALS.

D. PETITIONER HAS ESTABLISHED A *PRIMA FACIE* PRESUMPTION OF UNLAWFULLY ACQUIRED WEALTH.

II

SUMMARY JUDGMENT IS PROPER SINCE PRIVATE RESPONDENTS HAVE NOT RAISED ANY GENUINE ISSUE OF FACT CONSIDERING THAT:

- A. PRIVATE RESPONDENTS' DEFENSE THAT SWISS DEPOSITS WERE LAWFULLY ACQUIRED DOES NOT ONLY FAIL TO TENDER AN ISSUE BUT IS CLEARLY A SHAM; AND
- B. IN SUBSEQUENTLY DISCLAIMING OWNERSHIP OF THE SWISS DEPOSITS, PRIVATE RESPONDENTS ABANDONED THEIR SHAM DEFENSE OF LEGITIMATE ACQUISITION, AND THIS FURTHER JUSTIFIED THE RENDITION OF A SUMMARY JUDGMENT.

III

THE FOREIGN FOUNDATIONS NEED NOT BE IMPEADED.

IV

THE HONORABLE PRESIDING JUSTICE COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING HIMSELF ON THE GROUND THAT ORIGINAL COPIES OF THE AUTHENTICATED SWISS DECISIONS AND THEIR "AUTHENTICATED TRANSLATIONS" HAVE NOT BEEN SUBMITTED TO THE COURT, WHEN EARLIER THE SANDIGANBAYAN HAS QUOTED EXTENSIVELY A PORTION OF THE TRANSLATION OF ONE OF THESE SWISS DECISIONS IN HIS "PONENCIA" DATED JULY 29, 1999 WHEN IT DENIED THE MOTION TO RELEASE ONE HUNDRED FIFTY MILLION US DOLLARS (\$150,000,000.00) TO THE HUMAN RIGHTS VICTIMS.