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# FIRST DIVISION

# [ G.R. No. 116941, May 31, 2001 ]

## TIRSO ANTIPORDA, JR., JULIET C. BERTUBEN, IDE TILLAH, SERGIO OSMEÑA III, JAIME CALPO, EMMANUEL CRUZ, RICARDO DE LA CRUZ, AND PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), PETITIONERS, VS. SANDIGANBAYAN (SECOND DIVISION), EDUARDO M. COJUANGCO, JR., ENRIQUE M. COJUANGCO, ESTELITO P. MENDOZA, GABRIEL L. VILLAREAL AND RAFAEL G. ABELLO, RESPONDENTS.

## D E C I S I O N

**YNARES-SANTIAGO, J.:**

This is a petition for *certiorari* assailing the Resolution of August 16, 1994 of the Second Division of the Sandiganbayan which denied for lack of merit the motion to dismiss Civil Case No. 0162, entitled "*Eduardo M. Cojuangco, et al. v. Tirso Antiporda, et al.*" The said case was a petition for *quo warranto* filed in May 1994, seeking the nullification of the election on April 19, 1994 of the nominees of the Presidential Commission on Good Government (PCGG) to the Board of Directors of San Miguel Corporation (SMC).

In April and May 1986, the PCGG issued several writs of sequestration over the shares of forty-two (42) corporations[1] upon a *prima facie* finding that these were ill-gotten. The PCGG alleged that these corporations, which were beneficially owned and/or controlled by Eduardo M. Cojuangco, Jr., were the registered owners of a block of shares of the San Miguel Corporation (SMC) that was sufficient to elect at least seven (7) of the fifteen-member SMC Board of Directors.

Through counsel Estelito P. Mendoza, the said corporations filed with the Sandiganbayan SB No. 0110, "*Primavera Farms, et al. v. PCGG*," a petition for certiorari and prohibition with prayer for the issuance of a writ of injunction. The petition prayed for the lifting of the writs of sequestration on two grounds: (1) that there was no *prima facie* determination of the alleged illegality of the acquisition of shares of the corporations; and (2) that the writs of sequestration were deemed to have been automatically lifted when the PCGG failed to comply with Section 26, Article XVIII of the Constitution requiring that the judicial action against the subjects of such writs, if issued prior to the ratification of the Constitution, should be filed within six (6) months from such ratification. Subsequently, however, petitioner-corporations, after presenting evidence, withdrew the first ground of the petition and opted for the resolution of its petition on the basis of the second ground. They cited as basis for the motion to withdraw, the Resolution of this Court in *PCGG v. International Copra Export Corporation, et al.*[2] and the Decision in *Republic v. Sandiganbayan*,[3] to the effect that a writ of sequestration would be automatically lifted upon the lapse of a six-month period from the issuance of said writ and no judicial action was filed.

Acting on the motion to withdraw, the Sandiganbayan, on April 8, 1992, before the PCGG could even commence presentation of evidence, issued a Resolution[4] granting the petition and lifting the writs of sequestration over petitioner-corporations. In so ruling, the Sandiganbayan Third Division said:

> We agree with petitioners-movants that no issues of fact are involved in the instant petition, and that, hence, the petition can be decided on the basis of the existing law and the records. Indeed, the only issue to be resolved is whether or not the writs or orders of sequestration are deemed to have been automatically lifted for failure of the respondent PCGG to file the corresponding judicial action within the period prescribed by the Constitution, for it is undisputed that the shares of stock in the San Miguel Corporation of the herein petitioners were sequestered by the PCGG. The records also reveal that as of August 2, 1987, six months after the ratification of the Constitution, no judicial action was filed against the petitioners in connection with the sequestrations. The granting of this motion will expedite the wheels of justice and consequently benefit both parties in terms of savings in time and effort.
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> Respondent PCGG contends that since it has not yet presented its evidence, the granting of this motion will violate its right to due process, and, furthermore, will render moot and academic its petition for certiorari in the Supreme Court which seeks to nullify our resolution denying its motion to consolidate this case with Civil Case No. 0033 which is pending with the First Division of this Court.
>
> These objections are not well-taken. By the withdrawal of the first ground of the petition, the validity of the sequestration orders in question is not anymore in issue. Accordingly, there is no more need to show by evidence the prima facie basis for the issuance of the writs of sequestration for the second ground of the petition hypothetically admits their validity. It bears noting at this juncture that the petition, although citing two grounds therefor, prays for a single relief that is, a judicial declaration from the Court that the writs of sequestration here involved have been automatically lifted as of August 2, 1987 pursuant to the express provision of the Constitution, and, concomitantly, an injunction against the respondent from interfering with the petitioners' exercise of their rights in respect of their shareholdings in the San Miguel Corporation. No damages are claimed against the respondent.
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> The secondary contention that the first issue is intimately connected with the second issue and that the resolution of the first will weigh heavily on the second is untenable. The two issues are independent of each other - the first focuses on the validity of the writs of sequestration while the second relates to the effect of the respondent's failure to file the corresponding judicial action in accordance with the express mandate of the Constitution. It is not imperative to resolve both issues. As explained hereinabove, resolution of the second issue is sufficient to decide the petition.[5]

The Sandiganbayan's Third Division also ruled that there was no need to consolidate the case with Civil Case No. 0033 even though a third amended complaint impleading the petitioner-corporations was already admitted by the First Division of the Sandiganbayan. Aside from the fact that the issue had been resolved in the Resolution of September 27, 1991, the admission of the third amended complaint did not result in the revival or reinstatement of the writs of sequestration that had automatically lapsed or ceased to be effective as of August 2, 1987.

On April 20, 1992, the PCGG filed with this Court a petition for review assailing the above-quoted Sandiganbayan Resolution, which petition was docketed as G.R. No. 104850 and entitled "*PCGG v. Agricultural Consultancy Services, Inc.*" The petition also prayed for the issuance of a writ of preliminary injunction to enjoin the registered owners of the sequestered corporate shares in SMC from voting said shares in the stockholders' meeting scheduled on April 21, 1992. On the same day that the petition was filed, this Court issued a temporary restraining order (TRO) enjoining the therein private respondent corporations and the Sandiganbayan to cease and desist from enforcing the "questioned Resolution of April 8, 1992 in Civil Case No. 0110, entitled `*Primavera Farms, Inc., et al. v. Presidential Commission on Good Government (PCGG)*,' and from exercising the right to vote the subject shares at the stockholders meeting set on April 21, 1992."[6]

Consequently, at the stockholders' meeting on April 21, 1992, the respondent corporations in G.R. No. 104850 were not allowed to vote their shares. The fifteen men who were elected directors then were the following:

1. Andres Soriano III
2. Benigno P. Toda, Jr.
3. Francisco C. Eizmendi, Jr.
4. Eduardo J. Soriano
5. Estelito P. Mendoza
6. Benjamin Zialcita III
7. Antonio J. Roxas
8. Ramon Sy
9. Teodoro Locsin, Jr.
10. Enrique Herbosa
11. Juan J. Carlos
12. Fritz Jemperle
13. Renato C. Valencia
14. Domingo Lee
15. Oscar Hilado[7]

Notably, the only director elected from the Cojuangco group was Estelito P. Mendoza.[8]

The following year, the PCGG again filed in G.R. No. 104850 an urgent petition for the issuance of a TRO against the respondent corporations to enjoin them from voting their shares in the stockholders' meeting on April 21, 1993. On April 14, 1993, this Court issued a Resolution restraining the respondent corporations "from exercising the right to vote the subject shares" at the said stockholders' meeting.[9] Thus, the PCGG voted the sequestered shares, and prevented anyone from the Cojuangco group from getting elected in the SMC Board of Directors.

For the 1993-1994 term of the SMC Board of Directors, the PCGG voted 119,673,436 shares of the sequestered corporations,[10] thereby resulting in the election for that term of the government nominees to all 15 seats.[11] The Cojuangco group that included Estelito P. Mendoza, Enrique M. Cojuangco, Manuel

M. Cojuangco, Marcos O. Cojuangco, Gabriel L. Villareal, and Douglas Lu Ym, landed in the 16th to 21st places and hence, failed to get elected.[12]

On May 13, 1993, the losing candidates for the SMC board filed with the Sandiganbayan a petition for *quo warranto*, docketed as Civil Case No. 0150 and entitled "*Enrique Cojuangco, et al. v. Jaime Calpo, et al.*" Petitioners therein contended that: (a) the directors who were nominated by the government were not even qualified to be nominees for membership in the SMC Board of Directors as they did not own 5,000 SMC shares in their own name as required by SMC's by-laws, and (b) the PCGG did not have the authority to exercise the right to vote the sequestered shares. Considering that they owned shares of stock in the SMC, the members of the Cojuangco group would have occupied places Nos. 9 to 14 among the duly elected members of the SMC Board of Directors.

Moreover, petitioners invoked this Court's ruling in *Cojuangco v. Roxas*,[13] that the PCGG does not have the authority to vote sequestered shares, and averred that the votes cast by the PCGG's nominees should have been deducted from the total votes cast. The result would have Estelito P. Mendoza, Enrique M. Cojuangco, and Manuel M. Cojuangco in the 13th to the 15th places.[14]

For their part, the private respondents (the Antiporda group) in Civil Case No. 0150 countered that the petition was improper because the issue of the PCGG's right to vote the sequestered shares was still the subject of litigation before this Court in G.R. No. 104850. The proper recourse for the Cojuangco group would have been to intervene in the said case.[15]

On March 14, 1994, the Sandiganbayan's Third Division rendered the Decision[16] in Civil Case No. 0150 dismissing the petition for *quo warranto*.[17] Said Decision was anchored on this Court's Resolution of February 16, 1993 in G.R. No. 96073 which suspended the lifting of the sequestration decreed by the Sandiganbayan in Civil Case No. 0033 (*Republic v. Cojuangco)* and allowed the PCGG "to continue voting the shares of stocks under sequestration." We ruled that said Resolution was also applicable to Civil Case No. 0150 because G.R. No. 96073 was "related" to G.R. No. 104850; in fact, this Court ordered the consolidation of those cases. The rationale for the said Resolution in G.R. No. 96073, *i.e.,* the coconut levy funds were "clearly affected with public interest," was similar to the rationale for the April 14, 1993 Resolution in G.R. No. 104850, *i.e.,* the *prima facie* determination that the funds used in putting up the corporations that invested shares in the SMC were "ill-gotten wealth" within the contemplation of Executive Order Nos. 1, 2 and 14.[18]

The Cojuangco group filed a motion for the reconsideration of said Decision, however, the Sandiganbayan denied the same on April 29, 1994.

Meanwhile, the government filed another motion in G.R. No. 104850 praying that the registered owners of the sequestered shares be enjoined from voting the said shares. This Court issued a Resolution on April 19, 1994 once again enjoining the sequestered corporations from exercising the right to vote during the SMC stockholders' meeting scheduled for that same day, April 19, 1994. Prior to the meeting, Chairman Magtanggol Gunigundo informed SMC Corporate Secretary Jose Feria that the PCGG was nominating eight (8) persons to the SMC Board. For their

part, the Cojuangco group also submitted the names of Eduardo Cojuangco, Jr., Enrique M. Cojuangco, Estelito P. Mendoza, Gabriel L. Villareal and Rafael G. Abello as its nominees. Because of the TRO issued by the Court on April 19, 1994, no one from the Cojuangco group was elected.[19]

Consequently, on May 18, 1994, the Cojuangco group instituted another petition for *quo warranto* before the Sandiganbayan, docketed as Civil Case No. 0162. The petition named the herein petitioners (Antiporda group) as respondents and prayed that they be "ousted from the SMC Board for not owning the requisite number of qualifying shares of stock" and, in their stead, the Cojuangco group should be declared members of the same Board. They also prayed that therein private respondents Jaime Calpo, Emmanuel Cruz and Ricardo R. de la Cruz should be "ousted for not having more votes than petitioners Enrique M. Cojuangco, Manuel M. Cojuangco and Estelito P. Mendoza who should in their place be declared duly elected members" of the SMC Board.[20]

Respondent Antiporda group filed a motion to dismiss the petition on the ground of *res judicata*. Later, when the Cojuangco group filed with this Court G.R. No. 115352 (*Eduardo Cojuangco, et al. v. Sandiganbayan, et al.*, the Antiporda group changed their ground for dismissal of the petition into one of *auter action pendant*, *i.e.,* the pendency of another action between the same parties for the same cause. Further, their motion to dismiss also alleged that the petition stated no cause of action as the issue to be resolved, *i.e.,* whether they could be ousted as SMC directors, was dependent on the outcome of G.R. Nos. 96073 and 104850.[21]

The Cojuangco group opposed the motion to dismiss on the grounds that the doctrine of *res judicata* was inapplicable and the petition stated a cause of action pursuant to Rule 66 of the Rules of Court.[22] In their reply, the Antiporda group countered that the Cojuangco group should be deemed to have admitted that all the issues raised in their petition were reiterations *verbatim* of their previous petition for *quo warranto* over the same block of shares. The Antiporda group also asserted that: (a) Cojuangco, *et al*. never denied that the factual foundations of the petition were the same as those in the previous petition so that there could not have been an abandonment of the ruling already laid down by the Sandiganbayan; (b) only this Court can overturn a ruling of a Division of the Sandiganbayan; (c) the Second Division of the Sandiganbayan was obliged to apply the ruling of the same court's Third Division and to dismiss the petition; (d) the Third Division squarely ruled on the government's right to vote sequestered shares; (e) the doctrine laid down in *Cojuangco v. Azcuna* and *Cojuangco v. Roxas*[23] had been superseded by this Court's Resolution of February 16, 1993 in G.R. No. 96073 and by the Resolutions in G.R. No. 104850.[24]

Thereafter, the Antiporda group filed an answer *ad cautelam*[25] asserting in the main that the petition was barred by prior judgment and that it stated no cause of action.

It appearing that on June 29, 1994, the Cojuangco group had filed with this Court a petition for review on certiorari of the Decision in Civil Case No. 0150, the Antiporda group filed a motion for leave to file and admit a supplemental motion to dismiss. They argued in their supplemental motion to dismiss that by the filing of the said