

THIRD DIVISION

[G.R. No. 113420, March 07, 1997]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT,
PETITIONER, VS. SANDIGANBAYAN (THIRD DIVISION),
PROVIDENT INTERNATIONAL RESOURCES CORP., AND
PHILIPPINE CASINO OPERATORS CORPORATION,
RESPONDENTS.**

DECISION

PANGANIBAN, J.:

Two principal questions are presented for resolution in this petition: one, whether a proper judicial action was filed against respondent corporations in compliance with, and within the period contemplated in, Section 26, Article XVIII of the Constitution; and two, the validity of the sequestration order signed and issued "For The Commission" by only one PCGG Commissioner.

These questions are resolved by the Court in this special civil action for certiorari and mandamus with prayer for a writ of preliminary injunction and/or temporary restraining order, seeking to set aside the Resolutions dated December 4, 1991,^[1] and October 27, 1993,^[2] of the Sandiganbayan (Third Division) in Civil Case No. 0132 entitled "Provident International Resources Corporation and Philippine Casino Operators Corporation vs. Presidential Commission on Good Government."

The earlier Resolution granted the motion for judgment on the pleadings filed by petitioners below, declaring as automatically lifted the writ of sequestration issued against petitioner-corporations and ordering the Presidential Commission on Good Government ("PCGG") to restore to them their assets, properties, records and documents subject of the writ. The second Resolution denied PCGG's motion for reconsideration.

The Facts

On March 19, 1986, pursuant to powers vested upon it by the President of the Philippines under Executive Order No. 1, promulgated on February 28, 1986, the PCGG issued a writ^[3] of sequestration against all assets, movable and immovable, of Provident International Resources Corporation^[4] and Philippine Casino Operators Corporation ("respondent corporations").

On July 29, 1987, Petitioner Republic of the Philippines, through the Solicitor General, filed before the Sandiganbayan a complaint,^[5] docketed as Civil Case No. 0021, against Edward T. Marcelo, Fabian C. Ver, Ferdinand E. Marcos and Imelda R. Marcos for reconveyance, reversion, accounting, restitution and damages. Said

complaint sought to recover from named defendants alleged ill-gotten wealth. Among the corporations listed^[6] in the complaint as being held and/or controlled by Defendant Marcelo, and among the assets apparently acquired illegally by defendants, were respondent corporations. Later, on October 30, 1991, the complaint was amended^[7] to include both corporations as parties-defendants.

Prior to such amendment, specifically on September 11, 1991, respondent corporations filed before the Sandiganbayan a petition^[8] for mandamus praying for the lifting of the writ of sequestration issued by PCGG against them and for the restoration of their sequestered assets, properties, records and documents, on the ground that PCGG failed to file the appropriate judicial action against them within the period prescribed under Section 26,^[9] Article XVIII of the 1987 Constitution.

On December 4, 1991, public respondent issued the assailed Resolution, the dispositive portion of which states:

"WHEREFORE, the Motion for Judgment on the Pleadings is hereby granted. As prayed for, judgment is hereby rendered, as follows:

1) The writs of sequestration issued against herein petitioner-corporations are hereby declared automatically lifted, as of August 2, 1987, for failure of the respondent to file the proper judicial action against them within the period fixed in Section 26 of Article XVIII of the 1987 Constitution.

2) The respondent PCGG is hereby ordered to restore to the petitioners all their assets, properties, records and documents, subject of the sequestration.

Without pronouncement as to costs."^[10]

Respondent Sandiganbayan based its ruling on PCGG vs. International Copra Export Corporation^[11] ("PCGG vs. Interco") and Republic vs. Sandiganbayan and Olivares^[12] ("Republic vs. Olivares") which similarly held that the mere listing or inclusion of corporations among certain properties allegedly amassed, beneficially owned or controlled by individual party-defendants in a complaint filed for recovery of ill-gotten wealth, does not justify the failure of PCGG to implead said corporations in a proper judicial action within the period fixed in Section 26, Article XVIII of the Constitution.

PCGG filed a motion for reconsideration. In denying said motion on the ground that the allegations therein were "essentially a mere rehash of respondent's Answer to the Petition as well as Opposition to the Motion for Judgment on the Pleading," public respondent further noted that the sequestration order dated March 19, 1986, was issued and signed by only one PCGG commissioner in violation of Section 3 of the PCGG Rules and Regulations.^[13]

Issues

In imputing against Respondent Sandiganbayan grave abuse of discretion amounting to lack or excess of jurisdiction in granting respondent corporations' petition for mandamus, petitioner assigns the following errors^[14] in the assailed

Resolutions:

1. declaring the writ of sequestration to have been automatically lifted for alleged failure of petitioner to file the proper judicial action against respondent corporations within the period fixed in Section 26, Article XVIII of the 1987 Constitution;
2. applying the rulings in PCGG vs. Interco and Republic vs. Olivares that the filing by petitioner of the judicial action against a stockholder of the sequestered company is not the judicial action contemplated by the Constitution; and
3. ruling that the sequestration order dated March 19, 1986, signed by only one PCGG commissioner, violated Section 3 of the PCGG Rules and Regulations requiring the authority of two (2) PCGG commissioners for the issuance of such order.

The errors assigned may be condensed into two principal issues, to wit:

1. Whether a proper judicial action was filed against respondent corporations in compliance with, and within the period contemplated in, Section 26, Article XVIII of the Constitution; and
2. Whether the sequestration order issued on March 19, 1986 against respondent-corporations was valid and effective despite having been signed by only one commissioner, contrary to the PCGG Rules and Regulations requiring the authority of at least two commissioners therefor.

Petitioner contends that the complaint docketed as Civil Case No. 0021 filed on July 29, 1987, against Edward Marcelo, et al. and amended on September 11, 1991, to implead respondent corporations as defendants, is the proper judicial action contemplated under the subject provision of the Constitution that would warrant the continuance of the sequestration. The Solicitor General further claims that Civil Case No. 0021 justifies the application of the doctrine of "piercing the veil of corporate fiction" since the records bear prima facie evidence that respondent corporations, which are wholly owned and controlled by defendants therein, were used to hide their ill-gotten wealth. Anyhow, he says, this issue has even been rendered moot and academic with the amendment of the complaint impleading respondent corporations as parties-defendants in the aforementioned case. In addition, petitioner postulates that Civil Case No. 0021 which sought to recover ill-gotten wealth was an action in rem or quasi in rem, the alleged ill-gotten wealth (respondent corporations, among others) of individual defendants, being the res or subject matter of the case.

As regards the second issue, petitioner avers that one signatory to the sequestration order complies with the requirement under the PCGG Rules since said order was signed "FOR THE COMMISSION." Petitioner explains that during the organizational stage of the PCGG, the rule of the Commission in the issuance of sequestration orders was that "any Commissioner can file or issue a sequestral order provided the order has the conformity, verbal or written, of another Commissioner."^[15] It cites

the minutes of the meeting of the Commission on October 15, 1987, in support of this contention:

"The authority of at least two commissioners which is required under Sec. 3 of the PCGG Rules and Regulations may be written or verbal authority. Such authority may be reflected in the Minutes or the Commission meeting held en banc covering the pertinent recommendation/approval on the issuance of the order; or the Commissioner-in-charge intending to issue the Order may simply obtain the concurrence of another (sic) Commissioner after explaining the evidence supporting such order.

It is sufficient for only one Commissioner to sign the Order 'FOR THE COMMISSION'. After April 11, 1986, the Commission has encouraged the practice of two Commissioners signing the Order. (Excerpt from Minutes of PCGG Meeting on 15 October 1987, Annex 'L')"^[16]

Respondent corporations, on the other hand, pray for the denial of the instant petition because petitioner allegedly failed to take the appropriate remedy which should have been an appeal under Rule 45 of the Rules of Court, and not a certiorari proceeding under Rule 65, since the petition does not proffer a question of jurisdiction.

With respect to the issues raised by petitioner, respondent corporations aver that Republic vs. Sandiganbayan, Lobregat, et al.^[17] ("Republic vs. Lobregat"), modifying PCGG vs. Interco and Republic vs. Olivares, cannot be made to apply to the case at bench since the assailed Resolutions had already become final and executory prior to the promulgation of the decision in the first case mentioned. They also contend that the sequestration order signed by only one PCGG Commissioner is null and void.

The Court's Ruling

Preliminary Issue: Propriety of Rule 65 as Mode of Appeal

Before proceeding to the resolution of the principal issues raised in the petition, we first dispose of the procedural question on the propriety of certiorari under Rule 65 of the Rules of Court as the remedy in assailing the subject Sandiganbayan Resolutions.

We answer in the affirmative, and treat this case as an exception to the general rule governing petitions for certiorari. Normally, decisions of the Sandiganbayan are brought before this Court under Rule 45, not Rule 65.^[18] However, where the issue raised is one purely of law, where public interest is involved, and in case of urgency, certiorari is allowed notwithstanding the existence and availability of the remedy of appeal.^[19] Certiorari may also be availed of where an appeal would be slow, inadequate and insufficient.^[20]

The nature of this case is undeniably endowed with public interest and involves a matter of public policy.^[21] One of the foremost concerns of the Aquino Government in February 1986 (after the Marcoses fled the country) was the recovery of unexplained or ill-gotten wealth reputedly amassed by former President and Mrs.

Ferdinand Marcos, their relatives, friends and business associates. Thus, the Provisional Constitution (Proclamation No. 3) mandated the President to "give priority to measures to achieve the mandate of the people to: x x x (d) recover ill-gotten properties amassed by the leaders and supporters of the previous regime and protect the interest of the people through orders of sequestration or freezing of assets or accounts x x x"[22] Not too long ago, in Republic vs. Lobregat, the Court described this undertaking as "surely x x x an enterprise 'of great pith and moment'; it was attended by 'great expectations'; it was initiated not only out of considerations of simple justice but also out of sheer necessity - the national coffers were empty, or nearly so." Hence, the Presidential Commission on Good Government was created by Executive Order No. 1 to assist the President in the recovery of unexplained wealth whether located in the Philippines or abroad. Executive Order No. 14 further conferred on the Sandiganbayan exclusive and original jurisdiction over all cases of ill-gotten wealth, and provided that "technical rules of procedure and evidence shall not be strictly applied to x x x (said) civil cases." [23]

We further opined in the same case that:

"Political normalization of the country -- which fortunately came not too long after the EDSA Revolution of 1986 -- did not abrogate, or diminish the strength of the lofty state policy for recovery of ill-gotten wealth, no matter that its prosecution has thus far yielded what not a few are disposed to regard as at best only mixed results, or was attended by much abuse on the part of some of its officers or 'fiscal agents'; indeed, that circumstance should vigorously argue for its more sustained and effective pursuit and implementation.

And equally, if not more, important, strong paramount public policy is not to be set at naught by technical rules of procedure or by narrow constructions of constitutional provisions that frustrate their clear intent or unreasonably restrict their scope. x x x" [24]

First Issue: Requisite Judicial Action Filed Within Period Prescribed

This issue is not novel. We have sufficiently and extensively discussed and resolved this in Republic vs. Lobregat which was a consolidation of twenty petitions before this court presenting a common issue summed this wise:

"Does inclusion in the complaints filed by the PCGG before the Sandiganbayan of specific allegations of corporations being 'dummies' or under the control of one or another of the defendants named therein and used as instruments for acquisition, or as being depositaries or products, of ill-gotten wealth; or the annexing to said complaints of a list of said firms, but without actually impleading them as defendants, satisfy the constitutional requirement that in order to maintain a seizure effected in accordance with Executive Order No. 1, s. 1986, the corresponding 'judicial action or proceeding' should be filed within the six-month period prescribed in Section 26, Article XVIII, of the (1987) Constitution?" [25]