

[SYLLABUS]

[G.R. No. 112708-09, March 29, 1996]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT,
PETITIONER, VS. SANDIGANBAYAN, SIPALAY TRADING
CORPORATION AND ALLIED BANKING CORPORATION,
RESPONDENTS.**

D E C I S I O N

FRANCISCO, J.:

Save for slight modification of a specific disquisition made by the SANDIGANBAYAN in its now-assailed judgment dated August 23, 1993, we affirm the same, as well as its Resolution promulgated on October 7, 1993 denying the Motion For Reconsideration.

The factual background of this case is as follows:

Petitioner PCGG issued separate orders against private respondents Sipalay Trading Corporation and Allied Banking Corporation (hereinafter referred to as SIPALAY and ALLIED) to effect their sequestration. Two (2) separate petitions were filed by SIPALAY and ALLIED before this Court assailing the sequestration orders. After the consolidation of these petitions and the filing of the comments, other pleadings and certain motions by the parties, this Court referred the cases to public respondent SANDIGANBAYAN for proper disposition,^[1] where SIPALAY's petition was docketed as S.B. 0095, and that of ALLIED as S.B. 0100.

Concerning SIPALAY (S.B. 0095), its 360, 875, 513 shares of stock in Maranaw Hotels and Resort Corporation which owns the Century Park Sheraton Hotel are, according to the PCGG, part of Lucio C. Tan's ill-gotten wealth. The PCGG on July 24, 1986 thus sequestered these SIPALAY shares under a "Sequestration Order and Supervisory Committee" which reads:

"24 July 1986

Maranaw Hotels and Resort Corporation
C/O Mr. Lucio C. Tan
Allied Banking Corporation
Allied Bank Center
Ayala Ave., Makati
Metro Manila

Subject: Sequestration Order and Supervisory Committee

Gentlemen:

By virtue of the powers vested in the Presidential Commission on Good Government by authority of the President of the Republic of the Philippines, we hereby sequester the shares of stocks in Maranaw Hotels and Resort Corporation held by and/or in the name of Sipalay Trading Corporation.

We direct you not to cause any transfer, conveyance encumbrance, concealment, or liquidation of the aforementioned shares of stocks without any written authority from the commission.

xxx xxx xxx

This sequestration order and formation of the Supervisory Committee shall take effect upon your receipt of this Order.

For your immediate and strict compliance.

Very truly yours,

FOR THE COMMISSION:

(Sgd.)
RAMON A. DIAZ

(Sgd.)
QUINTIN S. DOROMAL

Commissioner

Commissioner"^[2]

SIPALAY was forced to litigate after the PCGG sought to implement the sequestration without acting on its motions "x x x To Lift Sequestration Order" and "x x x For Hearing For Specification Of Charges And For Copies Of Evidence." SIPALAY maintained that the sequestration was without evidentiary substantiation, violative of due process, and deemed automatically lifted when no judicial proceeding was brought against it within the period mandated under Article XVIII, Section 26 of the Constitution.

Anent ALLIED (S.B. 0100), its Valenzuela branch on August 13, 1986 was served a "Search and Seizure Order" by agents of the PCGG, the text of which reads:

"The Manager
Allied Banking Corporation
Valenzuela Branch
Valenzuela, Metro Manila

SEARCH AND SEIZURE ORDER

Gentlemen:

By virtue of the powers vested in this Commission by the President of the Republic of the Philippines, you are hereby directed to submit for search and seizure all bank documents in the abovementioned premises which our representative may find necessary and relevant to the investigation being conducted by this Commission.

Atty. Benjamin Alonte is deputized to head the team that will implement this Order.

August 13, 1986, Pasig, Metro Manila.

FOR THE COMMISSION:

(Sgd.)
RAMON A. DIAZ
Commissioner

(Sgd.)
MARY CONCEPCION BAUTISTA
Commissioner"^[3]

ALLIED went to court for the same reason that the PCGG was bent on implementing the order. ALLIED contended that this order is not one for sequestration but is particularly a general search warrant which fails to meet the constitutional requisites for its valid issuance.

The petitions were jointly heard by the SANDIGANBAYAN. Briefly, the more salient events which transpired therein are as follows:

At the presentation of their evidence, PCGG Secretary Ramon Hontiveros appeared as the lone witness for SIPALAY and ALLIED. He produced and identified excerpts of the minutes of the PCGG meetings held on March 13 and 12, 1986^[4] in response to a subpoena duces tecum.

For the PCGG's part, its witnesses were Commissioner Dr. Quintin Doromal, former PCGG Commissioner Mary Concepcion Bautista, now deceased, and Atty. Benjamin Alonte, Director IV, Legal Department of the PCGG who headed the team that served the search and seizure order on ALLIED. Commissioner Doromal identified voluminous documents. Former Commissioner Bautista died midway her cross-examination. The PCGG almost failed to present Atty. Alonte, had the SANDIGANBAYAN not reconsidered^[5] its Order of March 8, 1993^[6] declaring the cases submitted for decision after the PCGG was deemed to have waived presentation of its evidence for its repeated postponements of the hearing. After Atty. Alonte's testimony and upon the PCGG's manifestation that it was no longer presenting any witness, the SANDIGANBAYAN^[7] gave the PCGG twenty (20) days (from July 1, 1993) within which to submit its formal evidence in writing. SIPALAY and ALLIED were given the same period (20 days) from receipt of such written formal offer of evidence within which to file their formal comments and/or objections thereto, and after which, the incident will be deemed submitted for resolution.

What the PCGG filed on July 7, 1993 was not a written formal offer of its evidence as directed by the SANDIGANBAYAN, but a "Motion To Dismiss" the SIPALAY and ALLIED petitions. Admittedly, this motion to dismiss came nearly seven (7) years after SIPALAY and ALLIED originally filed their petitions before this Court on September 16, 1986 and August 26, 1986, respectively. The ground was SIPALAY's and ALLIED's alleged failure to exhaust administrative remedies. The PCGG argued that SIPALAY and ALLIED should have first appealed the sequestration orders to the Office of the President before challenging them in court, invoking Sections 5 and 6 of the PCGG Rules and Regulations. An "Oppositions" and a "Reply" were filed in relation to the motion.

At some earlier time (May 21, 1992), the PCGG filed a "Motion For The Consolidation Or Joint Trial" of SIPALAY's and ALLIED's petitions (S.B. 0095 and S.B. 0100) with Civil Case 0005 - a complaint for "Reversion, Reconveyance, Restitution, Accounting and Damages" dated July 17, 1987 likewise filed before the SANDIGANBAYAN by the PCGG against Lucio Tan, Ferdinand and Imelda Marcos, and other defendants.^[8] The SANDIGANBAYAN formally denied this motion in an extended Resolution dated July 6, 1993. The PCGG filed a "Motion for Reconsideration" thereof. This motion was deemed submitted for resolution when no opposition and reply were filed. SIPALAY and ALLIED then filed a "Motion To Consider Cases Submitted For Decision," to which an opposition and reply were filed.

The PCGG lost in these cases below. The SANDIGANBAYAN in its now-assailed August 23, 1993 Decision^[9] voided the orders issued against SIPALAY and ALLIED. The decretal portion reads:

"In S.B. No. 0095

"WHEREFORE, in the light of the foregoing, the Court has no judicious recourse but to declare, as it hereby declares, the writ of sequestration issued against petitioner Sipalay Trading Corporation's shares of stock in Maranaw Hotel and Resorts Corporation as deemed automatically lifted for respondent PCGG's failure to implead the petitioner within the period mandated under Section 26, Article XVIII of the 1987 Constitution. The same writ is likewise declared null and void for having issued without sufficient evidentiary foundation -respondent PCGG having failed to adduce and proffer that quantum of evidence-necessary for its validity - without prejudice to the issue of illgotten wealth being attributed to petitioner Sipalay Trading Corporation and/or defendants Lucio C. Tan, et al. being threshed out and litigated in Civil Case No. 0005.

"In S.B. No. 0100

"WHEREFORE, premises duly considered, the Court hereby declares the subject search and seizure order issued by respondent PCGG directed against petitioner Allied Banking Corporation's Valenzuela branch on August 13, 1986 as null and void ab initio for having been issued without due process and in contravention of the organic law then in force, the

Freedom Constitution, under which mantle, the Bill of Rights found in the 1973 Constitution was amply protected and enforced. Consequently, all documents, records and other tangible objections (sic) seized pursuant thereto are hereby ordered returned to petitioner Allied Banking Corporation through its duly authorized representative, after proper inventory and accounting shall have been made within thirty (30) days from receipt hereof.

SO ORDERED."

The resolution of PCGG's motion to dismiss and for reconsideration of the denial of its motion for consolidation or joint trial, as well as SIPALAY's and ALLIED's motion to consider the cases submitted for decision, was incorporated in the decision. And after its motion for reconsideration of the decision was denied in a Resolution promulgated on October 7, 1993,^[10] the PCGG brought the instant petition. A comment, reply, and rejoinder were subsequently filed.

The key issues, in query form, are:

- (1) Was the SANDIGANBAYAN's denial of the PCGG's motion to dismiss proper?
- (2) Should the SANDIGANBAYAN have disposed first such motion to dismiss rather than resolving it as part of the judgment?
- (3) Was the nullification of the sequestration order issued against SIPALAY and of the search and seizure order issued against ALLIED correct?
- (4) Were the sequestration and search and seizure orders deemed automatically lifted for failure to bring an action in court against SIPALAY and ALLIED within the constitutionally prescribed period?

Hardly can it be disputed that a direct action in court without prior exhaustion of administrative remedies, when required, is premature, warranting its dismissal on a motion to dismiss grounded on lack of cause of action. The supporting cases cited by the PCGG in its petition indeed spell this out, to wit: "*Pestanas v. Dyogi*,"^[11] "*Aboitiz v. Coil, of Customs*,"^[12] and "*Aquino-Sarmiento v. Morato*."^[13] And in the case of "*Ocampo v. Buenaventura*"^[14] likewise cited by PCGG, the Court in essence approves of the filing of a motion to dismiss based upon failure to state a cause of action at any stage of the proceedings.

"As a general rule, a motion to dismiss is interposed before the defendant pleads (Section 1, Rule 16, Rules of Court). However, there is no rule or law prohibiting the defendant from filing a motion to dismiss after an answer had been filed. On the contrary, Section 2 of Rule 9, expressly authorizes the filing of such motion at any stage of the proceedings when it is based upon failure to state a cause of action x x x."