FIRST DIVISION

[G.R. No. 250565. March 29, 2023]

REPUBLIC OF THE PHILIPPINES, *PETITIONER*, VS. BIENVENIDO R. TANTOCO, JR., DOMINADOR R. SANTIAGO, FERDINAND E. MARCOS, SUBSTITUTED BY HIS HEIRS, NAMELY IMELDA R. MARCOS, FERDINAND R. MARCOS, JR., IMEE MARCOS, AND IRENE MARCOS-ARANETA,[**] IMELDA R. MARCOS, BIENVENIDO R. TANTOCO, SR., GLICERIA R. TANTOCO, SUBSTITUTED BY DOMINADOR R. SANTIAGO,[***] AND MARIA LOURDES TANTOCO-PINEDA, *RESPONDENTS*.

D E C I S I O N

ROSARIO, J.:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court of the Decision[2] dated September 25, 2019 of the Sandiganbayan in Civil Case No. 0008 dismissing the Complaint (Expanded Per Court Order dated January 29, 1988)[3] (Expanded Complaint) against respondents Bienvenido Tantoco, Sr. (Tantoco, Sr.), Bienvenido R. Tantoco, Jr. (Tantoco, Jr.), Gliceria R. Tantoco (Mrs. Tantoco), Maria Lourdes Tantoco-Pineda (Tantoco-Pineda; Tantocos), Dominador Santiago (Santiago), Ferdinand E. Marcos (Marcos), and Imelda R. Marcos (Mrs. Marcos; Marcoses) (collectively, respondents) for insufficiency of evidence. Also assailed is the November 20, 2019 Resolution[4] denying reconsideration thereof.

Antecedent Facts

The Complaint:

On July 21, 1987, the Republic of the Philippines (petitioner), through the Presidential Commission on Good Government (PCGG), filed a Complaint[5] for Reconveyance, Reversion, Accounting, Restitution and Damages against the respondents. The complaint sought to forfeit all properties held by them, alleged to have been illegally gotten and accumulated during the incumbency of former President Marcos.[6]

In summary, the petitioner alleged that Marcos unlawfully withdrew funds from the

National Treasury, the Central Bank, and other financial institutions of the country, and caused the transfer of these funds to various payees with the intention of accumulating ill-gotten wealth. With respect to the other respondents, the PCGG alleged that they collaborated with former President Marcos to appropriate and conceal the assets illegally acquired by the former. In particular, the Tantocos and Santiago were alleged to have acted as dummies in the acquisition of various real and personal properties, as well as businesses of the Marcoses; they allowed The Duty-Free Shops to divert five percent of its taxes to the Nutrition Center of the Philippines (headed by Mrs. Marcos) and to the Manila Seedling Bank (headed by Tantoco, Sr.); they obtained unlimited tax-free importation benefits for their personal use and for the benefit of The Duty-Free Shops; and they obtained many other unwarranted benefits for themselves and their businesses as a result of their close association with the Marcoses.[7]

Thus, petitioner prayed that all real and personal properties, as well as the business interests of respondents that had already been sequestered pursuant to Executive Order (E.O.) Nos. 1 and 2 and those enumerated in Annex "A"[8] of the Complaint be forfeited;[9] that respondents be compelled to render an accounting of all properties and funds in excess of their lawful earnings or income; and that respondents be ordered to pay damages in the total amount of One Billion and Fifty Million Pesos (PHP1,050,000,000.00), plus all other amounts that might be proved during trial.[10]

Proceedings before the Sandiganbayan:

After the death of Marcos, he was substituted in the case by his heirs: Mrs. Marcos, Ferdinand Marcos, Jr., Imee Marcos and Irene Marcos Araneta (collectively, Marcos children).[11] Likewise, after the death of Mrs. Tantoco, she was substituted in the case by her co-defendant, Santiago (collectively, Spouses Tantoco), in his capacity as executor of her estate.[12]

On July 17, 1989, Tantoco-Pineda filed a Request for Admission,[13] which petitioner replied to and admitted that Tantoco-Pineda had never been a public officer and had never been granted a franchise to operate a duty-free shop in her individual capacity.[14]

On July 27 and August 3, 1989, respectively, Tantoco, Jr. and Santiago filed their Interrogatories and Amended Interrogatories to Plaintiff,[15] requesting petitioner to specify which properties are supposedly ill-gotten and what specific acts constitute misappropriation and theft of public funds, among others. On August 4, 1989, Tantoco, Jr.

and Santiago also filed a Motion for the Production and Inspection of Documents,[16] praying that petitioner be required to submit before the Sandiganbayan all the documents and other evidence proving the allegations of the Complaint and supporting its Pre-trial Brief.[17] On August 25, 1989, the Sandiganbayan granted Tantoco, Jr. and Santiago's motions for discovery on the ground that the purpose of the discovery proceedings is to make the relevant documents and objects in the possession of one party available to the other, thus eliminating strategic surprise, permitting the issues to be simplified, and expediting the trial.[18]

On October 25, 1989, petitioner elevated the matter to this Court in G.R. No. 90478,[19] and We upheld the Sandiganbayan's order granting Tantoco, Jr. and Santiago's motions for discovery on November 21, 1991.[20]

In the meantime, on July 12, 1991, the Spouses Tantoco also filed a Motion for the Production and Inspection of Documents,[21] as well as their Interrogatories to Plaintiff,[22] asking for factual details surrounding the complaint.[23] On May 8, 1992, the Sandiganbayan also granted the motion for discovery and interrogatories filed by the Spouses Tantoco.[24]

Thus, the Sandiganbayan set the discovery proceedings for January 5, 1993 until July 14, 1993, during which period petitioner produced some documents for the respondents. These documents were temporarily marked as Exhibits "A" to "LLL" with submarkings. Thereafter, petitioner manifested that it had no more documents to produce.[25]

Pre-trial ensued, after which petitioner's evidence were pre-marked on September 23 and 25, 1996 by adopting the temporary markings made during the discovery proceedings, namely: Exhibits "A" to "LLL" with submarkings. Then, despite its manifestation that it had no more documents to produce, petitioner produced and caused the pre-marking of additional documents marked as Exhibits "MMM" to "QQQ-5." After this, petitioner again manifested that it had no further documents to produce.[26]

On October 1, 1996, respondents filed a Motion Under Rule 29 of the Rules of Court,[27] seeking to sanction petitioner for having produced additional documents despite having manifested during the discovery proceedings that it had no further documents to produce beyond Exhibit "LLL." The Sandiganbayan denied respondents' Motion.[28] On April 2, 1997, Mrs. Marcos filed a Motion to Suspend Further Proceedings[29] as to herself and former President Marcos because there was a pending motion filed by the Marcos children for the approval of a compromise agreement, but the Sandiganbayan denied the same because the

Motion for Compromise in the alleged pending compromise agreement had already been denied.[30]

During the hearings held on September 11, 2001 and October 15, 2001, petitioner again presented and marked additional Exhibits "RRR" to "YYY," which were not presented during the discovery proceedings. Thus, on November 6, 2001, Tantoco, Sr., Tantoco, Jr., and Santiago filed another Motion to Ban the Plaintiff from Offering Exhibits Not Earlier Marked During the Discovery Proceedings,[31] reiterating their prayer that petitioner be sanctioned and prohibited from introducing documents that were not presented during the discovery proceedings. However, the Sandiganbayan again denied defendants' Motion and allowed plaintiff to maintain its additional Exhibits "RRR" to "YYY."[32]

On March 16, 2007, petitioner filed its Formal Offer of Exhibits,[33] consisting of Exhibits "A" to "AAAAAAA-105," almost all of which were not originals. In its Resolution[34] dated January 15, 2008, the Sandiganbayan denied the admission of all of petitioner's exhibits for failure to comply with the Best Evidence Rule, and for failure to prove the due execution and authenticity of the documents.[35]

Upon petitioner's Motion for Reconsideration,[36] the Sandiganbayan reconsidered its earlier resolution on September 25, 2008, and admitted only Exhibits "FF," "GG," "GG-1," "HH," "HH-1," "XX," "YY," "ZZ," "AAA," "BBB," and "CCC" because only those passed the test of admissibility. In addition, the Sandiganbayan also admitted Exhibits "MMM" to "AAAAAAA."[37]

Consequently, on October 24, 2008, the Tantocos and Santiago filed a Motion for Reconsideration,[38] which the Sandiganbayan partly granted on June 3, 2009 and, this time, the Sandiganbayan denied admission of petitioner's Exhibits "MMM" to "AAAAAAA," inclusive of submarkings. In granting the Motion and denying admission of petitioner's Exhibits "MMM" to "AAAAAAA," the Sandiganbayan ruled that petitioner must be prevented from offering in evidence all the documents that were not produced and exhibited during the discovery proceedings.[39]

With respect to petitioner's Exhibits "FF," "GG," "GG-1," "HH," "HH-1," "XX," "YY," "ZZ," "AAA," "BBB," and "CCC," the Sandiganbayan imposed the additional condition that these exhibits will be discarded if petitioner fails to establish their relevance to any of the issues.[40]

On August 10, 2009, petitioner elevated the exclusion of Exhibits "MMM" to "AAAAAAA" to

this Court in G.R. No. 188881,[41] where We upheld the Sandiganbayan's denial of admission of said exhibits on April 21, 2014.[42]

Petitioner filed a Motion for Reconsideration[43] but the same was denied with finality by this Court on April 22, 2015. The decision of this Court in G.R. No. 188881 became final and executory on June 22, 2015.[44]

Sandiganbayan Decision:

After due proceedings, the Sandiganbayan rendered the assailed Decision[45] on September 25, 2019, finding that petitioner Republic, through the PCGG, failed to prove the allegations of its Expanded Complaint by a preponderance of evidence, and, accordingly, dismissed the complaint for insufficiency of evidence.

In arriving at its Decision, the Sandiganbayan explained that forfeiture proceedings are civil in nature, and as such, must be proved by a preponderance of evidence. Thus:

> Forfeiture proceedings under RA 1379 are civil in nature and actions for reconveyance, revision, accounting, restitution, and damages for ill-gotten wealth, as in this case, are also called civil forfeiture proceedings. Similar to civil cases, the quantum of evidence required for forfeiture proceedings is preponderance of evidence.[46]

Sandiganbayan Resolution of the Petitioner's Motion for Reconsideration

Undeterred, petitioner filed a Motion for Reconsideration[47] from the Decision of the Sandiganbayan on October 17, 2019. Petitioner, while admitting that most of its documentary exhibits were denied admission, insisted that the remaining testimony of its four witnesses and the 11 documents admitted by the Sandiganbayan were more than sufficient to establish the culpability of the defendants.[48]

Finding plaintiff's arguments to be a mere rehash of previous arguments, the Sandiganbayan denied the Motion for lack of merit in its Resolution dated November 20, 2019.[49]

The Petition and Comment

The PCGG's Petition

Hence, the instant Petition for Review on *Certiorari*[50] under Rule 45 of the Rules of Court filed by the Republic and the PCGG, through the Office of the Solicitor General, on January 14, 2020, and insisting on the affirmative resolution of the following issue:

> WHETHER THE SANDIGANBAYAN ERRED IN DISMISSING PETITIONER'S COMPLAINT ON THE GROUND THAT PETITIONER FAILED TO PROVE THE ALLEGATIONS IN THE EXPANDED COMPLAINT FOR INSUFFICIENCY OF EVIDENCE AND THAT THE TESTIMONIES OF ITS WITNESSES FAILED TO ESTABLISH THE RELEVANCE OF THE ADMITTED DOCUMENTS TO PROVE THE ALLEGATIONS IN THE COMPLAINT.[51]

Comment of the Tantocos and Santiago:

On June 23, 2020, this Court required all respondents to file their respective comments on the Petition within 10 days from notice.[52] However, despite proper notice, only the Spouses Tantoco, Tantoco-Pineda and Santiago filed a Comment. The period to file comment having long lapsed, the instant Petition is deemed submitted for decision sans comment from the Marcoses.

In their Comment[53] filed on November 11, 2020, the Tantocos and Santiago raised the following counter-arguments in support of their prayer to deny the Petition and affirm the Decision of the Sandiganbayan. While in her Comment,[54] filed on November 14, 2022, Tantoco-Pineda adopted the Comment of the Spouses Tantoco and Santiago, as follows:

> A.
>
> THE PETITION SHOULD BE DENIED OUTRIGHT BECAUSE ONLY QUESTIONS OF LAW SHOULD BE RAISED IN A RULE 45 PETITION.
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> B.

THE SANDIGANBAYAN CORRECTLY DISMISSED THE CASE BECAUSE THE PETITIONER FAILED TO PROVE, BY PREPONDERANCE OF EVIDENCE, THE ALLEGATIONS IN THE COMPLAINT.

- THE CORPORATIONS WHICH WERE ALLEGEDLY USED AS CONDUIT OF ILL-GOTTEN WEALTH WERE NOT IMPLEADED.
- PETITIONER'S ADMITTED EXHIBITS FAILED TO PROVE ITS [sic] CAUSES OF ACTION.
- PETITIONER FAILED TO PROVE THAT RESPONDENTS ACTED AS DUMMIES, NOMINEES OR AGENTS OF THE MARCOSES IN ACQUIRING PERSONAL PROPERTIES.
- PETITIONER FAILED TO PROVE THE ELEMENTS NECESSARY TO WARRANT A FORFEITURE OF THE PROPERTIES SUBJECT OF THIS CASE.
- PETITIONER FAILED TO PROVE THAT THE RESPONDENTS WERE EXTENDED UNDUE AND UNWARRANTED ADVANTAGES AND CONCESSIONS BY THE MARCOSES.
- PETITIONER FAILED TO PROVE THAT [Philippine Eagle Mines, Inc.] PEMI AND [Rustan Investment and Management Corp.] RIMCO WERE CONDUITS OF THE MARCOSES' ILL-GOTTEN WEALTH.
- THE TESTIMONIAL EVIDENCE PRESENTED BY PETITIONER FAILED TO PROVE ITS CAUSES OF ACTION.
- PETITIONER FAILED TO DISCHARGE ITS BURDEN OF PROOF.

C.

FAILURE TO COMPLY WITH THE REQUIREMENT OF A PRELIMINARY INVESTIGATION FURTHER WARRANTS THE DISMISSAL OF THE CASE.[55]

The Issue

Presented, thus, for Our consideration is the issue of whether the Sandiganbayan was correct in excluding most of petitioner's evidence on the grounds that they were not presented during the discovery proceedings, and they violated the Best Evidence Rule. If so,

was the Sandiganbayan correct in ruling that petitioner's remaining evidence was insufficient to support the allegations of its complaint, with the consequence that the complaint must be dismissed?

The Court's Ruling

There is no merit in the petition. The Sandiganbayan committed no reversible error in dismissing the Expanded Complaint for insufficiency of evidence.

While it may be true that petitioner had submitted numerous pieces of evidence, many were excluded because they were not disclosed during the discovery process and others were excluded for violating the Best Evidence Rule. After all was said and done, only 11 exhibits and four testimonies were admitted. Upon the Sandiganbayan's evaluation of the remaining admissible evidence, it concluded that such pieces of evidence were either insufficient to prove the allegations of the Expanded Complaint, or were unrelated to the facts sought to be proved by petitioner.[56]

Given that the instant case is a civil action for forfeiture of allegedly ill-gotten wealth, it was incumbent upon petitioner to prove its allegations by a preponderance of evidence.[57] Failing that, the Sandiganbayan correctly dismissed the Expanded Complaint.

Discovery refers to the process by which parties to a legal proceeding gain access to facts which may directly or indirectly support their claims or defenses.

There are five modes of discovery under our current Rules of Court, to wit: depositions;[58] written interrogatories;[59] request for admissions;[60] request for production or inspection of documents or things;[61] and physical and mental examination of persons.[62]

These modes of discovery have been contained in our Rules of Court since July 1, 1940. It is a historical fact that our Rules of Court on Civil Procedure were patterned after the Federal Rules of Civil Procedure (FRCP) of the United States (U.S.), particularly the provisions on the modes of discovery. The broad discovery method of U.S. litigation is based on that jurisdiction's characteristic inclination to lay all cards on the table, so to speak, in order to

facilitate the early resolution of cases: whether by fair settlement or by summary judgment. These modes of discovery were carried on to the 1964 Rules of Civil Procedure;[63] the 1997 Rules of Civil Procedure,[64] which were in force when the instant case was pending; and have withstood the amendments contained in the current 2019 Revised Rules of Civil Procedure.[65]

The obvious purpose of discovery is to enable the parties to gain access to the facts involved in their case and enable them to manage their complaint or defense more effectively. For the trial courts, discovery allows for the abbreviation of court proceedings; ensures the prompt disposition of cases; and decongests court dockets.[66]

As explained by this Court in G.R. No. 90478[67]—the case first filed by herein petitioner in the Supreme Court after the Sandiganbayan granted respondents' various motions for discovery—the effective resolution of cases requires a complete presentation of facts before the law can be applied. Resort to discovery proceedings is highly encouraged because they greatly aid in the complete presentation of facts. Thus, the Court in G.R. No. 90478[68] admonished:

> It is thus the obligation of lawyers no less than of judges to see that this objective is attained; that is to say, that there be no suppression, obscuration, misrepresentation or distortion of the facts; and that no party be unaware of any fact material and relevant to the action, or surprised by any factual detail suddenly brought to his attention during the trial.
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> x x x x
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> The truth is that "evidentiary matters" may be inquired into and learned by the parties before the trial. Indeed, it is the purpose and policy of the law that the parties — before the trial if not indeed even before the pre-trial — should discover or inform themselves of all the facts relevant to the action, not only those known to them individually, but also those known to their adversaries; in other words, the *desideratum* is that ***civil trials should not be carried on in the dark***; and the Rules of Court make this ideal possible through the deposition-discovery mechanism set forth in Rules 24 to 29. The experience in other jurisdictions has been that ample discovery before trial, under proper regulation, accomplished one of the most necessary ends of modern procedure: it not only eliminates unessential issues from trials thereby shortening them considerably,

> but also requires parties to play the game with the cards on the table so that the possibility of fair settlement before trial is measurably increased x x x.
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> x x x x
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> What is chiefly contemplated is the discovery of every bit of information which may be useful in the preparation for trial, such as the identity and location of persons having knowledge of relevant facts; those relevant facts themselves; and the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things. x x x
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> x x x x
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> In fine, the liberty of a party to make discovery is well-nigh unrestricted if the matters inquired into are otherwise relevant and not privileged, and the inquiry is made in good faith and within the bounds of the law.[69] (Citations omitted; emphasis supplied)

With such pronouncement, the Court made known the clear mandate of petitioner — and, indeed, of all lawyers and judges — to give way to a proper request for discovery and to disclose all evidentiary matters in their possession, ***withholding nothing***.

Refusal to produce requested documents during the discovery process will prohibit the introduction in evidence of the withheld documents

To ensure compliance with the Court's mandate to submit to discovery procedures, the Rules impose serious sanctions on the party who refuses to make discovery, such as requiring the refusing party or deponent or the counsel advising the refusal, or both of them, to pay the proponent the amount of the reasonable expenses incurred in obtaining the order, including attorney's fees;[70] declare them to be in contempt of court;[71] take the matters inquired into as established in accordance with the claim of the party seeking discovery;[72] disallow the disobedient party to support or oppose designated claims or defenses, or prohibit him or her from introducing in evidence the designated documents or things or items of testimony, or from introducing evidence of physical or mental condition;[73]

strike out pleadings or parts thereof, stay further proceedings, dismiss the action or proceeding or part thereof, or render a judgment by default against the disobedient party;[74] or direct the arrest of the refusing party or agent of the party.[75]

In the case at bar, while petitioner did not directly refuse to submit to the requests for discovery made upon it by respondents, petitioner presented documentary evidence that it did not produce during the discovery proceedings despite having clearly manifested several times that it had no other documents to disclose or produce apart from Exhibits "A" to "LLL."[76]

Thus, despite its unequivocal manifestation during discovery proceedings that it had disclosed all documents in its possession, petitioner produced and caused the pre-marking of additional documents marked as Exhibits "MMM" to "QQQ-5" during pre-trial. After this, petitioner again manifested that it had no further documents to produce.[77] During the hearings held on September 11 and October 15, 2001, petitioner again presented and marked additional Exhibits "RRR" to "YYY," which were not presented during the discovery proceedings.[78] Then, in brazen disregard of the Rules and in defiance of the Court's ruling in G.R. No. 90478, petitioner formally offered not only all of the foregoing documents, but even more additional exhibits up to Exhibit "AAAAAAA-105" in its Formal Offer of Evidence filed on March 16, 2007.[79]

Thus, in G.R. No. 188881[80] —the second case filed by petitioner before this Court, assailing the Sandiganbayan's disallowance of the documents that it did not disclose during discovery proceedings — We considered petitioner's presentation and Formal Offer of Evidence beyond Exhibit "LLL" during pre-trial and trial as an ***intentional concealment of evidence***, in defiance of the Court's clear mandate in G.R. No. 90478.

Referring to its ruling in G.R. No. 90478 directing plaintiff to submit to and respect the discovery proceedings, the Court in G.R. No. 188881 said:

> Aside from lack of authentication and failure to present the originals of these documents, what ultimately tipped the scales against petitioner in the view of the graft court was the former's **lack of forthrightness in complying with the Supreme Court directive**.[81] (Emphasis supplied)

Favorably quoting the Sandiganbayan's June 3, 2009 Order, the Court in G.R. No. 188881

emphasized:

> Thereafter, it did not take long in the process of the presentation of plaintiff's evidence before it became apparent that **plaintiff's exhibits consist mostly of documents which have not been exhibited during the discovery proceedings** despite the directive of this Court [the Sandiganbayan] as confirmed by the Supreme Court. Plaintiff's failure to offer a plausible explanation for **its concealment of the main bulk of its exhibits** even when it was under a directive to produce them and even as the defendants were consistently objecting to the presentation of the concealed documents gives rise to a reasonable [inference] that the **plaintiff, at the very outset, had no intention whatsoever of complying with the directive of this Court**.[82] (Emphases supplied)

The Supreme Court, in G.R. No. 188881, underscored the consequence of not complying with discovery proceedings in good faith: ***if, during pre-trial or discovery, when a party is required to disclose all evidence supporting his or her assertions, the contending party must produce such evidence; otherwise, all evidence existing but not so disclosed shall be considered as intentionally concealed by him or her and, consequently, denied admission if formally offered***. Thus, the Court stated:

> Petitioner failed to obey the mandate of G.R. No. 90478, which remains an important case on pre-trial and discovery measures to this day; the rationale of these rules, especially on the production of documents, must be constantly kept in mind by the bar:
>
> > The message is plain. It is the duty of each contending party to lay before the court the facts in issue — fully and fairly; *i.e.*, to present to the court all the material and relevant facts known to him, suppressing or concealing nothing, nor preventing another party, by clever and adroit manipulation of the technical rules of pleading and evidence, from also presenting all the facts within his knowledge.[83]

Thus, way back on June 22, 2015, when Our Decision in G.R. No. 188881 became final and executory,[84] the Court had already finally affirmed and upheld the Sandiganbayan's admission of only 11 of petitioner's exhibits, namely: Exhibits "FF," "GG," "GG-1," "HH," "HH-1," "XX," "YY," "ZZ," "AAA", "BBB", and "CCC." The exclusion of the other documentary evidence of petitioner was due not only to their concealment in defiance of discovery proceedings, but also due to petitioner's violation of the Best Evidence Rule, since the documents were either photocopies and/or were not properly authenticated. Aside from these 11 pieces of documentary evidence, the testimonies of four witnesses were also admitted.

A forfeiture case is civil in nature, and, as such, the quantum of evidence required by plaintiff to prove the same is a preponderance of evidence.

E.O. No. 14-A, Section 3,[85] clearly states that the degree of proof required in civil forfeiture cases, such as the one at bar, is preponderance of evidence. Thus –

> Sec. 3. The civil suits to recover unlawfully acquired property under Republic Act No. 1379 or for restitution, reparation of damages, or indemnification for consequential and other damages or any other civil actions under the Civil Code or other existing laws filed with the Sandiganbayan against Ferdinand E. Marcos, Imelda R. Marcos, members of their immediate family, close relatives, subordinates, close and/or business associates, dummies, agents and nominees, may proceed independently of any criminal proceedings and may be ***proved by a preponderance of evidence***.

It is hornbook principle that in civil cases, the burden of proof rests upon the plaintiff, who is required to establish his or her case by a preponderance of evidence.[86] In *Caranto v. Caranto*,[87] the Court defined "preponderance of evidence," to wit:

> Preponderance of evidence is defined as the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible

> evidence." It is a phrase that, in the last analysis, means probability of the truth. It is evidence that is more convincing to the court as it is worthier of belief than that which is offered in opposition thereto.[88]

However, it is not enough that the plaintiff has a greater number of evidence, or that his or her evidence be more credible, it is imperative that the evidence of plaintiff tends to prove the allegations of his or her complaint following the adage that "***he [or she] who alleges must prove***."[89]

In the instant case, petitioner's Expanded Complaint contained numerous specific allegations of wrong-doing on the part of respondents. First, the petitioner alleged that former President Marcos "embarked upon a systematic plan to accumulate ill-gotten wealth"[90] in alleged connivance with the other respondents. Then, petitioner also alleged that former President Marcos –

> [O]rdered and caused, among others:
>
> (b-i) the massive and unlawful withdrawal of funds, securities, reserves and other assets and property from the National Treasury, the Central Bank, the other financial institutions and depositories of Plaintiff;
>
> (b-ii) the transfer of such funds, securities, reserves and other assets and property to payees or transferees of his choice and whether and in what manner such transactions should be recorded in the books and records of these institutions and other depositories of Plaintiff.[91]

In its Expanded Complaint,[92] the petitioner specifically enumerated the illegal acts of respondents, as follows:

> 14. Defendant Bienvenido Tantoco served as public officer during the Marcos administration. During his period of incumbency as public officer, he acquired assets, funds and other property grossly and manifestly disproportionate to his salaries, lawful income and income from legitimately acquired property.
>
> 15. Defendants Bienvenido Tantoco, Gliceria R. Tantoco, Maria Lourdes Tantoco-Pineda, Bienvenido R. Tantoco, Jr., and Dominador Santiago by themselves

and/or in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, collaborated in the latter's scheme, devices and stratagems to appropriate and conceal the ownership of assets illegally obtained to the grave damage of Plaintiff among others, as follows:

> a) Knowingly acted as dummies, nominees, and/or agents of Defendants Ferdinand E. Marcos and Imelda R. Marcos in unlawfully acquiring for the benefit of the latter, personal assets such as expensive works of arts, clothes and jewelry;
>
> b) Knowingly and willingly acted as dummies, nominees and/or agents of Defendants Ferdinand E. Marcos and Imelda R. Marcos for the purpose of acquiring real estate worth billions of pesos such as the New York properties which are presently the subject of Civil Case No. 001, PCGG No. 2, pending before this Honorable Court.
>
> c) Acted with evident purpose of concealing the ownership of assets illegally obtained, as dummies, nominees and/or agents of Defendants Ferdinand E. Marcos and Imelda R. Marcos in acquiring franchise to operate tourist duty-free shops at international airports, hotels and commercial centers, under which defendants Gliceria R. Tantoco, Maria Lourdes Tantoco-Pineda with the active participation of Bienvenido Tantoco, Sr., Bienvenido Tantoco, Jr., and Dominador R. Santiago, secured presidential approval for them to operate and manage exclusively TDF shops which were supposed to pay only a minimal franchise tax of 7% of the gross income, but which was shared with the Nutrition Center of the Philippines with the Defendant Imelda R. Marcos as President, the Manila Seedling Bank Foundation and Defendant Bienvenido Tantoco, Jr. as President, as well as the Mount Samat Reforestation project, but only 2% went to the government coffers and the remaining 5% which ran into millions of pesos became Imelda R. Marcos sources of petty cash since these funds were funneled to her private foundations heretofore stated, to the plaintiff's grave damage and prejudice;
>
> d) Procured, almost unlimited duty and tax-free importation benefits

and manipulated importations by mere Draft Acceptances in excess of the amounts allowed by the Central Bank with the knowledge and willing participation of Defendant Dominador Santiago who was the Chairman of Tourist Duty Free Shops, Inc., and the approval of which importations by mere Trade-Acceptance was secured by defendants Tantocos and Santiago through Imelda R. Marcos solely for their personal benefit and for the TDFS.

e) Acted as dummies, nominees, or agents of Defendants Ferdinand E. Marcos and Imelda R. Marcos in holding and beneficially controlling, among others, such corporations as Rustan International Marketing, Eagle Mining Corporation, Rustan Pulp and Paper Factory.

f) The undue and unwarranted influence, advantage and concessions extended to the family of Tantocos and Dominador Santiago from the Marcoses did not end in the raking of tremendous profit but even obtained a legislative franchise to continue the operation of TDFS for 25 years under Presidential Decree 1193. Other privileges it enjoyed under this Presidential Decree, among other [sic], are the following:

> i. Store spaces at international airports and seaports, selected hotels, tourist resorts, commercial or trading centers throughout the country;
>
> ii. Exempt from the payment of all business and income taxes whether imposed by the national or local governments, all it had to pay the government was a franchise tax of 7% of its net sales; and
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> iii. Authority to put up bonded warehouse for its merchandise.

g) That in connection to [sic] the authority given to TDFS to establish a bonded warehouse under PD 1193, another decree was obtained by the Tantocos and/or TDFS, exempting the said Bonded Warehouse from the duties and taxes imposed by PD 1352 and PD 1359. This

decree is Presidential Decree No. 1394 is actually a secret decree because it was marked "not for publication" in the Official Gazette;

h) That in flagrant display of the Tantocos' strong connection and/or close association with the Marcoses, on January 4, 1983, Maria Lourdes Tantoco-Pineda, wrote a letter addressed to Jaime C. Laya, then Governor of Central Bank, requesting that TDFS will be allowed to make importations thru draft acceptance. Although the aforesaid letter was addressed to Jaime C. Laya, the same was not forwarded directly to Jaime C. Laya but to Ferdinand Marcos who in turn made a marginal note addressed to Jaime C. Laya, to allow said request to import thru draft acceptance. This letter with a marginal notation of Ferdinand Marcos was forwarded to Jaime C. Laya accompanied by a handwritten note of Gliceria R. Tantoco. At this time it was only EPZA and Oil Industry related firms were allowed importation by draft acceptance by the Monetary Board of the Central Bank in its Resolution dated December 10, 1982. Here the whole or majority of the Central Bank Monetary Board is needed to allow EPZA and Oil Industry related firm to make importation by draft acceptance. Yet, due to request of the Tantocos to allow TDFS to import by draft acceptance, only Governor Jaime C. Laya approved and allowed the same without referral to, or the concurrence of, the Monetary Board. Special privileges, advantages and concessions continued to be enjoyed by the Tantocos and/or TDFS, actively assisted by Defendant Dominador Santiago in early 1983 when the government was placing rigid restrictions on importation, TDFS thru the intercession of Gliceria Tantoco, was authorized to import banned/regulated items even without Central Bank approval and furthermore exempted from the provisions of MAAB's Nos. 35 and 5 dated December 24, 1980 and February 15, 1982, respectively, a privilege which ordinary mortals do not usually enjoy or have a chance to enjoy during the Marcos regime.

i) On July 22, 1985, Maria Lourdes Tantoco Pineda wrote a letter to Imelda R. Marcos, asking the latter's intercession in the matter of obtaining a new presidential decree 'so that we will be more safe (presumably from taxes and government scrutiny) in the future.' Accompanied by a copy of the Memorandum of Manuel Lazaro to

> Ferdinand Marcos recommending additional extra-ordinary benefits to TDFS in the proposed presidential decree and the ready made draft of the aforesaid proposed new presidential decree. One salient point of said proposed presidential decree is that all taxes, duties, imports, charges and fees which may be due from TDFS, Inc., and unpaid as of the effectivity of this Decree, are hereby considered paid.

16. The acts of Defendants, acting singly or collectively, and/or in unlawful concert with one another, constitute gross abuse of official position and authority, flagrant breach of public trust and fiduciary obligations, insofar as defendants Ferdinand E. Marcos, Imelda R. Marcos and Bienvenido Tantoco, Sr. are concerned, while the other defendants, including defendant Tantoco, Sr. acted as dummies and/or agents of defendant Ferdinand E. Marcos and Imelda R. Marcos in the acquisition of unexplained wealth, brazen abuse of right and power, unjust enrichment, violation of the Constitution and laws of the Republic of the Philippines, to the grave and irreparable damage of Plaintiff and the Filipino people.[93]

Indeed, such specific allegations of petitioner against respondents should have been proved by a preponderance of evidence. However, as the Sandiganbayan summarized, petitioner's evidence consisted only of the following:[94]

EXHIBIT	DESCRIPTION
FF	Letter dated 04 October 1983 to the Commissioner of the Bureau of Customs from Francisco S. Tantuico, Jr., COA Chairman, recommending the audit of the book of accounts of Tourist Duty Free Shops in connection with its operation on its reported tax deficiencies.
GG GG-1	Letter dated 04 October 1983 to Hon. Cesar Virata, Prime Minister and Minister of Finance from COA Chairman Francisco Tantuico, Jr. recommending the study of the book of accounts of Tourist Duty Free Shops Signature of Francisco Tantuico, Jr.

HH	Letter dated 04 October 1983 to the Acting Commissioner, Bureau of Internal Revenue, from COA Chairman Francisco Tantuico, Jr.
XX	Deed of Assignment by and between Philippine Eagle Mines in favor of the DBP and the Philippine Export and Foreign Loan Guarantee Corporation
YY	Promissory Note dated 20 October 1980 executed by Bienvenido Tantoco, Jr. for Philippine Eagle Mines, Inc. and Rustan Investment and Management Corporation in favor of the DBP in the amount of US$2,146,000.00
ZZ	Promissory Note dated 20 October 1980 executed by Bienvenido Tantoco, Jr. for Philippine Eagle Mines, Inc. and Rustan Investment and Management Corporation in favor of the DBP in the amount of US$229,607.00
AAA	Promissory Note dated 20 October 1980 in the amount of US$669,400.00 executed by Bienvenido Tantoco, Jr. as President of Philippine Eagle Mines, Inc. and Rustan Investment and Management Corporation in favor of the DBP
BBB	Promissory Note dated July 1980 in the amount of US$12,900,963.00 executed by Bienvenido Tantoco, Jr. as President of Philippine Eagle Mines, Inc. and Rustan Investment and Management Corporation in favor of the DBP
CCC	Promissory Note dated 20 October 1980 in the amount of US$3,734,297.00 executed by Bienvenido Tantoco, Jr. as President of Philippine Eagle Mines, Inc. and Rustan Investment and Management Corporation in favor of the DBP[95]

The testimonies of petitioners' four witnesses consisted of the following:

1. **Rogelio Azores**, *Assistant Chief of the Questioned Documents Division of the National Bureau of Investigation*, was presented as a handwriting expert. He testified that, after performing a comparative analysis of the standard specimen signatures of former President Marcos with the

signatures and handwriting, which were found on the letters of Tantoco, Sr. and Tantoco, Jr., his conclusion was that the signatures and handwriting were written by the same person.[96]

2. **Atty. Orlando L. Salvador**, *Special Counsel of the PCGG*, testified that he was the Coordinator of the Technical Working Group created to investigate behest loans in the Philippine National Bank and the Development Bank of the Philippines. According to Atty. Salvador, Philippine Eagle Mines, Inc. (a corporation of the Tantocos) was among the non-paying accounts of PNB and DBP.[97]
3. **Evelyn R. Singson**, *Executive Vice President of Security Bank & Trust Company* from 1980-1986, testified that she was in charge of nine accounts covered by Trust Agreements (by way of depositing and withdrawing to and from the accounts on instruction of the Bank president), but admitted that she had no way of knowing who their beneficial owners were.[98]
4. **Danilo V. Daniel**, *Director for Research and Development of the PCGG*, testified that he was involved in the investigation of the ill-gotten wealth of the Marcoses and of the latter's business associates, and during his investigation he came upon documents relating to the trust accounts of Former President Marcos and to the paintings purchased by Mrs. Marcos.[99]

Comparing the allegations of the Expanded Complaint and plaintiff's evidence, ***the Sandiganbayan concluded that the testimony of four witnesses, supported by eleven documentary exhibits, were insufficient to prove plaintiff's allegations and some of its exhibits were even irrelevant to the issues presented***. Said the anti-graft court:

> The transaction covered by said Deed of Assignment and loan documents *per se* do not prove that the defendants acted as dummies, nominees or agents of defendants Marcoses in holding or controlling PEMI. Moreover, the plaintiff failed to prove any irregularity or illegality in the transaction. The loan agreement was not even presented, nor its allegedly illicit purpose even established. Verily, the plaintiff did not even present any competent witnesses to testify on this financial transaction.
>
> Plaintiff failed to prove that defendant Tantoco, Sr. acquired assets, funds and other property grossly and manifestly disproportionate to his salaries, lawful income, and income from legitimately acquired property when he served as

> public officer during the Marcos administration. There is likewise insufficient evidence to prove that the defendants acted as dummies, nominees, and/or agents of defendants Marcoses in acquiring works of art, clothes, jewelry, or real estate worth billions of pesos.
>
> x x x x
>
> x x x The letters of the COA to the BIR, the BOC, and the Prime Minister (Exhibits "**FF**," "**GG**," and "**HH**") only pertain to alleged tax deficiencies. These letters do not show that the defendants are dummies of the defendants Marcoses in its operation of the duty-free shops. The alleged participation of the defendants in securing the issuance of the presidential decree was not established. Moreover, the claim that five percent (5%) of the franchise tax paid by TDFSI went to defendant Imelda Marcos has no evidentiary support. Clearly, these documents are palpably insufficient to prove that defendants are concealing illegally obtained assets, or even amassing ill-gotten wealth.
>
> The plaintiff also failed to sufficiently establish the relevance of the Deed of Assignment executed by DBP, PHILGUARANTEE, and PEMI (Exhibit "**XX**") and the promissory notes executed by Defendant Tantoco, Jr.[100]

The Supreme Court is not a trier of facts, but even if it were, the Sandiganbayan's assessment of the sufficiency of plaintiff's evidence would still deserve the Court's respect

The Court emphasizes that factual questions are not the proper subject of a petition for review on *certiorari* under Rule 45, the same being limited only to questions of law.[101] Not being a trier of facts, the Court is not duty-bound to analyze and weigh again the evidence already considered in the proceedings below.[102] For such reasons, the Court has consistently deferred to the factual findings of the trial court, in light of the unique opportunity afforded them to observe the demeanor and spontaneity of the witness in assessing the credibility of their testimony.[103]

Nevertheless, considering the importance of this case, and in order to finally end this prolonged litigation which began way back in 1987, the Court will set aside the

technicalities and re-assess petitioner's evidence.

After a careful review of the evidence on record, the Court finds that the Sandiganbayan committed no error in finding that petitioner failed to adduce sufficient evidence to prove the allegations of its Expanded Complaint by the required quantum of evidence.

Exhibit "FF" is a letter from former Commission on Audit Commissioner to the Bureau of Customs recommending the audit of The Duty-Free Shops. A letter recommending an audit is not tantamount to proof of a wrong-doing.[104]

Exhibit "GG" is another letter from former COA Commissioner to the Minister of Finance, also recommending the study of the books of accounts of The Duty-Free Shops. Similar to Exhibit "FF," this is also just a recommendation and not a finding of guilt.[105]

Exhibit "HH" is yet another letter from former COA Commissioner to the BIR Commissioner, presumably on a tax matter but without a conclusion of guilt.[106]

Exhibit "XX" is a deed of assignment between Philippine Eagle Mines in favor of the DBP and the Philippine Export and Foreign Loan Guarantee Corporation. Again, a deed of assignment is proof of the assignment, but of no other fact.[107]

Exhibits "YY," "ZZ," "AAA," "BBB," and "CCC" are Promissory Notes executed by the companies of the Tantocos. They prove indebtedness but do not show any connection with the illegal acts alleged in the Expanded Complaint.[108]

Aside from failing to prove the allegation that the Tantocos were dummies of the Marcoses, the alleged participation of the respondents in securing the issuance of the presidential decree was not established. Neither was the claim proved that five percent (5%) of the franchise tax paid by The Duty-Free Shops went to Mrs. Marcos. Clearly, these documents are insufficient to prove that respondents concealed illegally obtained assets, or amassed ill-gotten wealth.

The same disjointedness and failure to show relevance can be said about the testimonies of the four witnesses.

Rogelio Azores, handwriting expert, testified that it was, indeed, the handwriting and signature of former President Marcos on the letters of Tantoco, Sr. and Tantoco, Jr., but nothing was said about the relevance of the handwriting.[109]

Atty. Orlando Salvador of the PCGG testified that Philippine Eagle Mines had unpaid loans from the PNB and DBP, but such fact does not support the allegations in the complaint that the Tantocos were dummies of the Marcoses, and nothing was shown connecting Philippine Eagle Mines with The Duty-Free Shops.[110]

Evelyn Singson's testimony that she was in charge of a number of trust accounts does not prove that those belonged to respondents because she also admitted that she does not know the names of the beneficial owners of the accounts.[111]

Finally, PCGG's Danilo Daniel's testimony that he came upon many documents relating to the trust accounts of former President Marcos and to the paintings purchased by Mrs. Marcos cannot substitute for actual documents and receipts evidencing the trust accounts and paintings purchased, if there were any.[112]

In order to consider petitioner's evidence as sufficient to prove the allegations of its Expanded Complaint, the Court has to perform many leaps of logic, engage in presumptions, and create inferences based on other inferences in order to bridge the gaps in the evidence adduced. In the face of such gaps, petitioner's allegations in its Expanded Complaint are reduced to mere speculations, insinuations and conjectures. Thus, while it is truly disappointing that nothing has come of this case despite the lapse of 36 years spent in litigation, the Court agrees with the Sandiganbayan that petitioner's evidence is insufficient to support the allegations of its Expanded Complaint by a preponderance of evidence. Accordingly, the Sandiganbayan was correct in dismissing the Expanded Complaint for Reconveyance, Accounting, Restitution and Damages against all the respondents.

IN VIEW OF THE FOREGOING, the petition is **DENIED**. The Decision dated September 25, 2019 of the Sandiganbayan in Civil Case No. 0008, dismissing the Expanded Complaint against respondents Bienvenido R. Tantoco, Jr., Dominador R. Santiago, Ferdinand E. Marcos, Imelda R. Marcos,. Bienvenido R. Tantoco, Sr., Gliceria R. Tantoco, and Maria Lourdes Tantoco-Pineda for insufficiency of evidence, and the Resolution dated November 20, 2019, denying reconsideration thereof, are **AFFIRMED** *in toto*.

SO ORDERED.

Hernando (Acting Chairperson), Zalameda, Dimaampao,[*] and *Marquez, JJ.*, concur.

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[*] Designated additional Member *vice* Chief Justice Alexander G. Gesmundo, per Raffle dated

March 8, 2023.

** See Resolution dated October 23, 1989, Sandiganbayan *rollo* (Vol. 2), pp. 958-960.

*** See Resolution dated February 6, 1996, Sandiganbayan *rollo* (Vol. 6), pp. 2, 749.

[1] *Rollo*, pp. 12-39.

[2] *Id*. at 46-77. Penned by Associate Justice Michael Frederick L. Musngi, and concurred in by Associate Justices Oscar C. Herrera, Jr. and Lorifel Lacap Pahimna.

[3] *Id*. at 107-138.

[4] *Id*. at 79-80.

[5] *Id*. at 81-106.

[6] *Id*. at 100.

[7] *Id*. at 117-125.

[8] *Id*. at 104-105.

[9] *Id*. at 135-138.

[10] *Id*. at 131-133.

[11] *Id*. at 52; Sandiganbayan *rollo* (Vol. 2), pp. 958-960.

[12] *Id*. at 52; Sandiganbayan *rollo* (Vol. 6), pp. 2, 749.

[13] Sandiganbayan *rollo* (Vol. 2), pp. 753-754.

[14] *Rollo*, p. 53.

[15] Sandiganbayan *rollo* (Vol. 2), pp. 795-806.

[16] *Id*. at 802-806.

[17] *Rollo*, pp. 53-54.

[18] *Id*. at 54.

[19] **Republic v. Sandiganbayan**, 281 Phil. 234 (1991).

[20] *Rollo*, p. 54.

[21] Sandiganbayan *rollo* (Vol. 4), pp. 1621-1624.

[22] *Id.* at 1625-1632.

[23] *Rollo*, p. 54.

[24] *Id.*

[25] *Id.* at 55.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] Sandiganbayan *rollo* (Vol. 7), pp. 2971-2993.

[30] *Id.* at 56.

[31] Sandiganbayan *rollo* (Vol. 8), pp. 3535-3538.

[32] *Id.*

[33] Sandiganbayan *rollo* (Vol. 9-A), pp. 1-31.

[34] Sandiganbayan *rollo* (Vol. 9), pp. 4081-4083.

[35] *Rollo*, p. 57.

[36] Sandiganbayan *rollo* (Vol. 9), pp. 4105-4114.

[37] *Rollo*, p. 57.

[38] Sandiganbayan *rollo* (Vol. 9), pp. 4141-4251.

[39] *Rollo*, p. 57.

[40] *Id.* at 58.

[41] **Republic v. Sandiganbayan**, 733 Phil. 196 (2014).

[42] *Rollo*, p. 58.

[43] Sandiganbayan *rollo* (Vol. 10), pp. 5195-5203.

[44] *Rollo*, p. 58.

[45] *Id.* at 46-77.

[46] *Id.* at 69.

[47] *Id.* at 133-150.

[48] *Id.* at 140.

[49] *Id.* at 79-80.

[50] *Id.* at 12-43.

[51] *Id.* at 21.

[52] *Id.* at 181-182.

[53] *Id.* at 190-250.

[54] *Id.* at 417-421.

[55] *Rollo*, pp. 203-204.

[56] *Id.* at 73-75.

[57] **Republic v. Sandiganbayan**, 461 Phil. 598, 616 (2003).

[58] RULES OF COURT, Rules 23 and 24.

[59] RULES OF COURT, Rule 25.

[60] RULES OF COURT, Rule 26.

[61] RULES OF COURT, Rule 27.

[62] RULES OF COURT, Rule 28.

[63] Promulgated on January 1, 1964.

[64] Per Supreme Court Resolution on Bar Matter No. 803 dated April 8, 1997.

[65] A.M. No. 19-10-20-SC, entitled "2019 AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE." Effective: May 1, 2020.

[66] See **Eagleridge Development Corporation v. Cameron Granville 3 Asset Management, Inc.**, 708 Phil. 693 (2013).

[67] **Republic v. Sandiganbayan**, *supra* note 19.

[68] *Id.*

[69] *Id.* at 251-256.

[70] 2019 REVISED RULES OF CIVIL PROCEDURE, Rule 29, Sections 1, 4 and 5.

[71] *Id.*, Section 2.

[72] *Id.*, Section 3(a).

[73] *Id.*, Section 3(b).

[74] *Id.*, Section 3(c).

[75] *Id.*, Section 3(d).

[76] *Rollo*, p. 55.

[77] *Id.*

[78] *Id.* at 56.

[79] *Id.* at 57.

[80] **Republic v. Sandiganbayan**, *supra* note 41.

[81] *Id.* at 224.

[82] *Id.*

[83] *Id.* at 224-225.

[84] *Rollo*, p. 58.

[85] Signed: August 18, 1986.

[86] 2019 REVISED RULES ON EVIDENCE, Rule 133, Section 1.

[87] **G.R. No. 202889**, March 2, 2020.

[88] *Rollo*, pp. 148-149.

[89] See **Republic v. Catubag**, 830 Phil. 226, 235 (2018).

[90] *Rollo*, p. 114. No. 10(a) of Expanded Complaint.

[91] *Id.* at 114-115. No. 10(b), (b-i) and (b-ii) of Expanded Complaint.

[92] *Id.* at 107.

[93] *Id.* at 117-125.

[94] *Id.* at 63-64.

[95] *Id.*

[96] *Id.* at 59.

[97] *Id.* at 60.

[98] *Id.* at 61.

[99] *Id.* at 62.

[100] *Id.* at 74-75.

[101] RULES OF COURT, Rule 45, Section 1.

[102] **Lopez v. Saludo, G.R. No. 233775**, September 15, 2021.

[103] **Republic v. De Borja**, 803 Phil. 8, 17 (2017).

[104] *Rollo*, p. 64.

[105] *Id.*

[106] *Id.*

[107] *Id.*

[108] *Id.*

[109] *Id.* at 59.

[110] *Id.* at 60.

[111] *Id.* at 60-61.

[112] *Id.* at 61.

Date created: October 17, 2023