

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN,
THIRD DIVISION, AND JOLLY R. BUGARIN, RESPONDENTS.***G.R. No. 102508. January 30, 2002*

Ponente: DAVIDE JR., C.J.

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Persistent in its efforts to recover the alleged unexplained wealth amassed by private respondent Jolly R. Bugarin, a government official during the Marcos regime, petitioner Republic of the Philippines implores this Court to reverse and set aside the 13 August 1991 Decision of the Sandiganbayan[1] dismissing, for insufficiency of evidence, its petition for forfeiture of properties filed pursuant to Republic Act No. 1379,[2] as amended.

In its petition[3] filed with the Sandiganbayan on 3 August 1987, petitioner, represented by the Presidential Committee on Good Government (PCGG), averred that respondent Bugarin acquired during his incumbency as Director of the National Bureau of Investigation (NBI) real and personal properties enumerated in paragraph 5 thereof whose aggregate fair market value at the time of their acquisition was P6,313,632.56. Allegedly, those properties were manifestly in excess or out of proportion to his salaries, allowances, and other emoluments from 1 July 1967 to 15 March 1986 totalling P743, 243.65 only.

In his Answer with Explanation,[4] Bugarin claimed that some of the properties enumerated in paragraph 5 of the petition were acquired by him and his wife before he became a Director of the NBI. The acquisition cost of the properties he acquired during his incumbency was P2,793,141.26 only. He likewise alleged that apart from the P743,243.65 he received for the entire period of his service as NBI Director, he also received allowances from the Dangerous Drugs Board (DDB) totalling P74,500.00; the National Police Commission (Napolcom), P148,032.24; the Central Bank, P834,700.00; and the Law Firm of San Juan, Africa, Gonzales, and San Agustin, P490,000.00. He also derived substantial income from the investments and properties he and his wife acquired before he became a Director of the NBI.

During the trial, respondent Bugarin presented fifteen witnesses, including himself, as well as documentary evidence marked as Exhibits “1” to “48.” A summary of his property acquisitions follows:

REAL PROPERTY

YEAR ACQUIRED

ACQUISITION COST

1.Residential lot in Dasmariñas
Village, Makati [5]

1968

P91,140

2.Nine (9) Residential lots,
Tagaytay City[6]

1968

9,340

3. Residential House
Dasmariñas Village, Makati[7]

1969

175,900

4. Residential Lot,
Greenhills, San Juan, Metro Manila[8]

1973

87,288

5. Residential Lot,
Capitol District Quezon City[9]

1972

72,750

6. Condominium Unit, Montepino
Condominium, Baguio City[10]

1973

100,000

7. Residential Lot
Valle Verde, Pasig, M.M.[11]

1976

263,165

8. Residential House
Valle Verde, Pasig, M.M.[12]

1978

250,000

9. Residential Lot

Calapan, Oriental Mindoro[13]

1978

5,000

10. Orchard & Cocoland

Puerto Galera, Oriental Mindoro[14]

1978

1,000

11. Residential House

Greenhills, San Juan [15]

1980

650,000

TOTAL

P1,705,583

BUSINESS INVESTMENTS

YEAR

AMOUNT

1. Philippine Commercial and Industrial Bank[16]

1968-1970; 1980

P24,800

2. Social Studies Publication[17]

1971

10,000

3. Admiral Investment & Financing Corp.

1965-1981

24,060

4. Admiral Development Corp.

3,200

5. Far East Bank & Trust Co.[18]

1971-1972

19,030

6. Lakeview Industrial Corp.

1973

10,000

7. Phil. Banking Corporation[19]

1970

1983

4,000

5,200

8. Mabuhay Airways Phils., Inc.

1974

10,000

9. Menzi Development Corp.

1974

5, 000

10. LRW Realty & Development

1975

300,000

11. Astra Financing Corporation[20]

1981

25,000

12. J.R. Garments Corporation[21]

1982

1983

300,000

150,0000

13. Manila Hilton

1,400

TOTAL

P891,690

OTHER INVESTMENTS

1. Philippine Columbian Club

1968-1975

P24,750

2. Makati Sports Club

1975

25,000

3. Manila Polo Club

1978

32,000

4. Baguio Country Club

1985

60,000

TOTAL

P141,750

To recapitulate, the total cost of the properties, business investments and other investments acquired by Bugarin during his incumbency as NBI Director is as follows:

Real Property

P1,705,583

Business Investments

891,690

Other Investments

141,750

TOTAL

P2,739,023

As to his income, he attempted to prove that aside from those mentioned in his Answer, he also earned the following amounts:

Proceeds from the sale of a
parcel of land in Iloilo City in 1968[22]

P15,000.00

Proceeds from the sale of his real property in Quezon City in 1984[23]

P300,000.00

Profits in stock transaction in 1983

P63,862.00

Pensions from the Philippine Government as veteran at P220 per month from July 1967 to March 1986

P49,000.00

Professional Fee received from the China Bank and Africa Law office[24]

P55,000.00

Outstanding balance as of 28 February 1989 of GSIS loan obtained in 1983[25]

P775,073.38

Pension from the United States Government as World War I veteran

\$8,512.00

Rental income from the lease of his houses in Dasmariñas Village, Makati; Valle Verde, Pasig; and Greenhills, San Juan, from 1981 to 1986

P1,748,640

In its 71-page decision, the Sandiganbayan excluded the allowances from the DDB, Napolcom and Central Bank on the ground that they were given to Bugarin in the nature of reimbursement, which would imply that they had been spent for the purpose for which they were earmarked and could not have therefore been used in purchasing the subject properties. Anent the professional fees, the Sandiganbayan held that “while the same may be considered as unlawful income, forfeiture thereof ... or ... of the properties equivalent to said amount is not part of the subject matter of the petition.” As to the amount of P63,862.50 alleged to have been his profits from stock

transactions, the same turned out to be the tax paid on the gains realized by him in stock transactions in 1983 and, hence, not allowable as part of his income. Also excluded from his disposable funds were the alleged pensions from the U.S. and Philippine governments, since the evidence presented were merely checks dated 1 February 1990 in the amount of \$38[26] and 31 January 1990 in the amount of P220,[27] respectively, albeit payable to Bugarin. It then summarized respondent's lawful income and disposable funds, thus:

Source of Income

Amount

1. Salary, allowances and other emoluments of respondent as
NBI Director (not disputed by the petitioner)

P743,243.65

2. Proceeds from sale of Quezon City lot
(Exhs. 35, 35-A and 36)

P300,000.00

3. Proceeds from sale of Iloilo City lot
(Exh. 3-B).....

P15,000.00

4. Rental Income earned by respondent from the lease of his houses in
Dasmariñas Village, Makati; Valle Verde, Pasig; and San Juan
(Exhs.39-A, 40-A, 41-A, 43-A and 44-A).....

P1,748,640.00

Total lawful income earned by respondent from
1967 – 1986

P2,806,883.65

Outstanding loan balance re:
GSIS loan obtained by respondent in 1983,

representing additional disposable funds by him
(Exh. 2)
P775,073.38

Respondent's total lawful income and additional disposable funds.....
P3,581,957.03[28]

Respondent's real property acquisitions and investments were summarized by the Sandiganbayan as follows:

Real property acquisitions / Investments

Amount

1. Real properties

P1,705,583

2. Business investments

906,690

3. Other investments

141,750

Total

P2,754,023

Apart from the amounts necessary for funding his property acquisitions and business investments, the Sandiganbayan declared as chargeable against his lawful income and disposable funds the amount of P497,094 representing tax payments made by the respondent from 1981 to 1986, as well as P310,000 representing family and personal expenses, using as basis therefor his Statement of Assets and Liabilities for the period ending 31 December 1969, which states that his family and personal expenses for the years 1967 and 1968 were P15,000 and P16,000, respectively. Hence, from 1967 to 1986, respondent's total cash outflow amounted to P3,561,117. The Sandiganbayan then concluded in this wise:

All things considered, it can be clearly seen that while respondent earned a total lawful income of P2,806,883.65 from 1967 to 1986, and had additional funds of P775, 073.38 sourced through a loan from GSIS, thereby accounting for total funds of P3,581,957.03, he bought real properties and engaged in business and other investments having a total worth of P2,754,023.00 during the same period. At the same time, he made tax payments of P497,094.00 and incurred an estimated family and personal expenses from 1967 to 1986 of P310,000.00. Summed up, respondent Bugarin's total cash outflow from 1967 to 1986 amounted to P3,561,117.00 out of his lawful income and source of funds (or a total cash inflow) valued at P3,581,957.03. We therefore reach the inevitable conclusion that respondent Bugarin funded his real property acquisitions and business and other investments out of his lawful income as NBI Director and other legitimate sources of financing.... Respondent Bugarin was able to explain to the satisfaction of this Court that aside from his income as NBI Director, he also earned substantial amounts from the sale by his wife of two parcels of land, and rental income from the lease of his three residential houses in Makati, Pasig, and San Juan. He also obtained a loan from the GSIS. These fund, all lawfully acquired, were utilized by him in financing his various acquisitions and business undertakings.[29]

Based on these findings, the Sandiganbayan dismissed the petition for forfeiture on the ground of insufficiency of evidence.

Hence, this petition wherein petitioner maintains that the Sandiganbayan "seriously erred" in holding that

WHILE THE AMOUNTS OF P490,000.00 (PROFESSIONAL FEES FROM THE SAN JUAN, AFRICA, GONZALES AND SAN AGUSTIN LAW OFFICE) AND P55,000.00 (PROFESSIONAL FEES CONTAINED IN THE STATEMENT OF ASSETS AND LIABILITIES AS OF DECEMBER 31, 1969) MAY BE CONSIDERED AS UNLAWFUL INCOME, FORFEITURE THEREOF OR OF RESPONDENT'S PROPERTIES EQUIVALENT TO SAID AMOUNT NOT BEING PART OF THE SUBJECT MATTER OF THE PETITION CANNOT BE GRANTED.

RESPONDENT'S OUTSTANDING LOAN BALANCE TO GSIS AMOUNTING TO P775,073.38 AS OF FEBRUARY 28, 1989, WHILE NOT TO BE CONSIDERED AS PART OF HIS INCOME, CONSTITUTES PART OF THE AGGREGATE OF FUNDS USED BY HIM IN CAPITALIZING HIS PROPERTY ACQUISITIONS AND BUSINESS INVESTMENTS.

RESPONDENT'S TOTAL INCOME OF P1,748,640.00 FROM THE LEASE OF HIS HOUSES IN DASMARIÑAS VILLAGE, MAKATI, VALLE VERDE, PASIG, AND SAN JUAN SHOULD BE CONSIDERED AS PART OF HIS LAWFUL INCOME.

IT IS THE ACQUISITION COST OF THE PROPERTY OR BUSINESS INVESTMENT PURCHASED OR ACQUIRED AND NOT THE FAIR MARKET VALUE THEREOF AT THE TIME OF ACQUISITION WHICH SHOULD BE MADE THE BASIS IN DETERMINING THE VALUE OF RESPONDENT'S TOTAL ACQUISITION DURING THE PERIOD CONSIDERED.

RESPONDENT'S TOTAL FAMILY AND PERSONAL EXPENSES PER YEAR WOULD AMOUNT TO P15,500.00 ONLY.

RESPONDENT BUGARIN FUNDED HIS REAL PROPERTY ACQUISITION AND BUSINESS AND

OTHER INVESTMENTS OUT OF HIS LAWFUL INCOME AS NBI DIRECTOR AND OTHER LEGITIMATE SOURCES OF FINANCING. [30]

It is well-settled that the appellate jurisdiction of the Supreme Court over decisions or final orders of the Sandiganbayan is limited only to questions of law.[31] A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted.[32] A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.[33]

The Supreme Court is not a trier of facts. It is not the Court's function to examine and weigh all over again the evidence presented in the proceedings below.[34] Thus, it is the policy of the Court to sustain the factual findings of the trial court, such as the Sandiganbayan, on the reasonable presumption that the latter court is in a better position to assess the evidence before it.

While the petitioner concedes that the Sandiganbayan's findings of facts are conclusive upon this Court, it invokes the exceptions laid down in *Dischoso v. Court of Appeals*,[35] to wit: "(1) when the conclusion is a finding grounded entirely on speculation, surmise, and conjectures; (2) when the inference made is manifestly absurd, mistaken, or impossible; (3) xxx; (4) when the judgment is premised on a misapprehension of facts; (5) xxx."

A plain reading of the Sandiganbayan's decision exposed manifest errors and misapprehension of facts, which impelled us to pore over the evidence extant from the records. After a careful perusal thereof and of the arguments of the parties, we have come up with the following conclusions.

I. Income from Private Practice of Profession.

We agree with the respondent that the professional fee he received from the law firm of San Juan, Africa, Gonzales and San Agustin from 1978 to 1986 in the amount of P70,000 per annum, as well as that in the amount of P55,000 reflected in his Statement of Assets and Liabilities for the period ending 31 December 1969, should not be excluded as part of his lawful income or disposable funds.

Section 12, Rule XVIII of Civil Service Rules provides:

Sec 12. No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of the Department: Provided, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government: Provided, further, That if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the officer or employee: and provided, finally, that no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors. (Underscoring supplied).

Respondent was engaged as a consultant on "handwriting, document examination and evaluation, ballistics, fingerprinting and other specialized projects." [36] He claimed that he rendered his services as such outside of office hours, which services did not conflict with his official functions as NBI Director. He was given permission

by his superior to act as a consultant, but he could not find among his files the written permission allegedly given to him in 1967. At any rate, he did not conceal his consultancy services and the corresponding fees he received; in fact, he stated them in the Statement of Assets and Liabilities he submitted to the Office of the Secretary of Justice, as well as in his Income Tax Returns.

Even assuming that he had no prior written authority to act as a consultant of a private entity, respondent's violation of the Rule -- lack of prior permission -- was a technical one.[37] At most, it would subject him to the administrative penalty provided in the Civil Service Rules had the proper charge been filed against him. Such violation did not amount to a crime or graft and corrupt practice as defined by law.[38] Hence, we are of the opinion that his professional fees should be included in the computation of his lawful income.

II. Outstanding Balance of his Loan from the GSIS

It is unquestionable that the outstanding loan balance of respondent's obligation to the GSIS in the amount of P775,073.38 as of 28 February 1989 did not constitute as respondent's "income" in the strict sense of the word. The same, however, formed part of the disposable funds used by him in capitalizing his property acquisition and business investments.

In *Republic v. Intermediate Appellate Court*, which was also a case for forfeiture of unexplained wealth,[39] this Court gave weight to the evidence adduced by the respondents therein indicating that the purchase by them of real properties and the construction of a house were partly financed through personal loans, and loans from the GSIS and the Development Bank of the Philippines.

In the present case, however, the loan from the GSIS in the sum of P995,000.00 was granted only on 20 May 1983. We cannot, therefore, sustain respondent's claim that it was his source of fund in the construction of his house in Greenhills, San Juan, which was undertaken in 1980, there being no competent evidence that he obtained other loans to initially finance such construction and that the GSIS loan proceeds were in fact used by him in repaying such loans. These loan proceeds could have been, at most, part of the funds he utilized in acquiring properties in 1983 or thereafter.

III. Rental Income from the Lease of his houses in Dasmariñas

Village, Makati; Valle Verde, Pasig; and Greenhills,
San Juan

It bears emphasis that, as borne out by his own summary of property acquisitions, most of his assets were acquired in 1980 and in the preceding years. The rental income of P1,748,640, which the Sandiganbayan included as part of his disposable funds, were for the period from 1981 to 1986. Thus, such income could not have been used by respondent in financing the purchase of his real properties and shareholdings in various companies prior to 1981. Besides, as will be shown later, there exists an unshakable doubt on the legality of this income, considering that the properties from which such income was derived were not wholly funded by lawful income.

IV. Basis for Determining the Value of Respondent's Assets

In ascertaining the value of respondent's properties and shareholdings, it is not the fair market value, as claimed by the petitioner, that should be made as basis thereof. Rather, as correctly held by the Sandiganbayan, it is the acquisition cost thereof, since it was the actual amount of money shelled out by respondent in acquiring them. It is the acquisition cost that must be charged against respondent's lawful income and funds.

Neither can we sustain petitioner's bare allegation that the cost or consideration of the subject properties stated in the contracts were understated for tax evasion purposes. Absent any evidence to support it, such claim deserves a

short shrift for being merely speculative or conjectural.

V. Family and Personal Expenses

In coming out with the figure P310,000 representing his personal and family expenses during his tenure as NBI Director, respondent court adopted as basis those supplied by private respondent in his Statement of Assets and Liabilities for the period ending 31 December 1969, which were P15,000 for 1967 and P16,000 for 1968. It proceeded to extrapolate the total figure for the entire period material to the forfeiture proceeding by multiplying the resulting annual average of P15,500 by 20 years.

Owing to the inflation and consequent decline of the purchasing power of the Philippine peso throughout the period in question, Bugarin's total family and personal expenses, as conceded by the Sandiganbayan, was extremely a conservative one. But, just like the Sandiganbayan, we can neither come up with a greater amount in the absence of any other evidence in support thereof. Indeed, the determination thereof cannot be left to conjecture or guesswork.

VI. Sufficiency of Respondent's Explanation of His Property Acquisitions

Section 2 of R.A. No. 1379 provides that whenever any public officer or employee has acquired during his incumbency property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and income from legitimately acquired property, the said property shall be presumed prima facie to have been unlawfully acquired. Section 5 thereof provides for a hearing during which the respondent is given an ample opportunity to explain, to the satisfaction of the court, how he has acquired the property in question. It is only when the respondent is unable to show that his asset acquisitions were lawfully made that such property shall be forfeited in favor of the State.

From the summary of Bugarin's assets, it can readily be seen that all of his real properties were purchased or constructed, as the case may be, from 1968 to 1980. The total acquisition cost thereof was P1,705,583. With the exception of those that had been liquidated, those acquired from 1981 onward, and those whose year of acquisition could not be determined, his shareholdings in various corporations and other investments amounted to P464,580. Hence, for the period from 1968 to 1980, he amassed wealth in the amount of P2,170,163.

On the other hand, his total income from 1967 to 1980 amounted only to P766,548, broken down as follows:

Professional fees reflected in his Statement
of Assets and Liabilities for 31 December 1969

P55,000

Professional fees from the Law Firm of San Juan,
Africa, Gonzales, and San Agustin from 1978 to
1980 at the rate of P70,000 per annum

P210,000

Proceeds from the sale of his lot in Iloilo City in 1968

P15,000

Salaries and Allowances from the NBI as reflected in his Income Statement (assuming that this is accurate)
[40]

P486,548

Total

P766,548

It bears repeating that the proceeds of the loan granted to him by the GSIS in 1983 and the rental income from 1981 to 1986, as well as the proceeds of the sale of his real property in 1984, could not have been utilized by him as his funds for the real properties and investments he acquired in 1980 and in the preceding years. His lawful income for the said period being only P766,548, the same was grossly insufficient to finance the acquisition of his assets for the said period whose aggregate cost was P2,170,163. This gross disparity would all the more be emphasized had there been evidence of his actual family and personal expenses and tax payments.

Premises considered, respondent's properties acquired from 1968 to 1980 which were out of proportion to his lawful income for the said period should be forfeited in favor of the government for failure of the respondent to show, to the Court's satisfaction, that the same were lawfully acquired.

WHEREFORE, the appealed decision of the Sandiganbayan is hereby REVERSED and SET ASIDE. The petition is GRANTED, and the properties of respondent JOLLY BUGARIN acquired from 1968 to 1980 which were disproportionate to his lawful income during the said period are ordered forfeited in favor of petitioner Republic of the Philippines. Let this case be REMANDED to the Sandiganbayan for proper determination of properties to be forfeited in petitioner's favor.

Melo, Vitug, Quisumbing, Buena, Ynares-Santiago, Sandoval-Gutierrez, and Carpio, JJ., concur.

Bellosillo, J., no part due to relationship to a party.

Puno, J., no part due to relation with respondent in the DOJ.

Kapunan, J., join justice Pardo in his dissenting opinion.

Mendoza, J., no part. Prior relationship with party.

Panganiban, J., no part – close family relations with a party.

Pardo, J., dissents. See dissenting opinion attached.

De Leon, Jr., J., no part. Signatory in SB Decision.

[*] This case was reassigned to the ponente pursuant to the Resolution of 27 February 2001 in A.M. No. 00-9-03-SC.

[1] Per Associate Justice Augusto M. Amores, with the concurrence of Associate Justices Conrado M. Molina and Sabino R. de Leon, Jr. (now Associate Justice of the Supreme Court). Original Records (OR), 696.

[2] Entitled An Act Declaring Forfeiture in Favor of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Proceedings Therefor.

[3] OR, 1.

[4] Id., 228.

[5] Exhibits “1,” “1-B” and “1-C.”

[6] Exhs. 15, 17, 17-A and 17-D.

[7] Exhs. “2” and “2-B.”

[8] Exh. “9.”

[9] Exhs. “10” and “12.”

[10] Exhs. “18” and “19.”

[11] Exhs. “5” and “5-B.”

[12] Exhs. “6” and “6-A..”

[13] Exh. “13.”

[14] Exhs. “14” and “14-A..”

[15] Exh. “2-C.”

[16] Exh. “28.”

[17] Exh. “23.”

[18] Exh. “27.”

[19] Exh. “26.”

[20] Exhs. “22” and “22-A..”

[21] Exh. “20.”

[22] Exh. “3-B.”

[23] Exh. “35-A.”

[24] Exh. “3.”

[25] Exh. “2.”

[26] Exh. “48.”

[27] Exh. “48-A.”

[28] OR, 754.

[29] OR, 763-764.

[30] Rollo, 31-32.

[31] *Rodriguez v. Sandiganbayan*, 177 SCRA 220, 225 [1989] citing *Gabison v. Sandiganbayan*, 151 SCRA 61 [1987].

[32] *Uniland Resources v. Development Bank of the Philippines*, 200 SCRA 751,755 [1991]; *Roman Catholic Archbishop of Manila v. Court of Appeals*, 258 SCRA 186, 199 [1996]; *China Road and Bridge Corp. v. Court of Appeals*, G.R. No. 137898, 15 December 2000.

[33] *China Road and Bridge Corp. v. Court of Appeals*, *supra*.

[34] *Trade Unions of the Philippines v. Laguesma*, 236 SCRA 586,591 [1994]; *Navarro v. Court of Appeals*, 209 SCRA 612, 623 [1992].

[35] 192 SCRA 169,175 [1990].

[36] Exh. "31."

[37] *Ramos v. Rada*, 65 SCRA 179,180 [1975].

[38] *Macariola v. Asuncion*, 114 SCRA 77, 102 [1982].

[39] 172 SCRA 296 [1989].

[40] Exh. "38."

DISSENTING OPINION**PARDO, J.:**

With much regret, I respectfully dissent from the decision that orders the forfeiture of the properties of respondent Jolly R. Bugarin acquired from 1968 to 1980 during his tenure as Director, National Bureau of Investigation, in favor of the petitioner Republic of the Philippines.

We explain our view.

We start with the basic proposition that when a public officer or employee has acquired during his incumbency in a public office an amount of property which is "manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed *prima facie* to have been unlawfully acquired"[1] and subject to forfeiture in favor of the State.[2]

I submit, however, that as found by the Sandiganbayan, respondent Bugarin was able to show to the satisfaction of the court that he has lawfully acquired the properties in question.

Hereunder is a list of property acquired by respondent during his incumbency as NBI director from 1967 to 1986:

A. Real Estate

Kind

Year Acquired

Acquisition Cost

Residential Lot

Makati, MM 1968-69

P 91,140.00

Residential House

Makati, MM 1969

175,900.00

Residential Lot

Pasig, MM 1976

263,264.26

Residential House

Pasig, MM 1978

250,000.00

Residential Lot

San Juan, MM 1973

87,288.00

Residential House

San Juan, MM 1980

620,000.00

Residential Lot

Quezon City 1973

72,750.00

Residential Lot

Calapan, Or. Mindoro 1978

5,000.00

Orchard & Cocoland
Puerto Galera, Oriental
Mindoro 1978

1,000.00

Nine (9) Residential Lots
Tagaytay City 1968-73

9,340.00

Condominium Unit, Montepino Condominium
Baguio City 1973

100,000.00

Total

P1,675,682.26

B. Business Investments

Amount

J. R. Garments Corporation

P 450,000.00

Astra Finance Corporation

25,000.00

Social Studies Publication, Inc.

10,000.00

Lakeview Industrial Corporation

10,000.00

Admiral Investment and Development Corp.

3,200.00

Admiral Investment & Financing

24,060.00

Manila Hilton

1,400.00

Phil. Banking Corporation

9,200.00

Mabuhay Airways Philippines, Inc.

10,000.00

Menzi Development Corporation

5,000.00

Far East Bank & Trust Co.

19,030.00

LRW Realty & Development Corporation

300,000.00

Phil. Commercial and Industrial Bank

24,800.00

Total

P891,690.00

C. Other Business Investments

Baguio Country Club

60,000.00

Manila Polo Club

32,000.00

Philippine Columbian Club

24,750.00

Makati Sports Club

25,000.00

Total

P141,750.00

The ponencia, however, questions the following:

I. Outstanding balance of GSIS loan. --

The ponencia states that the loan from the GSIS in the sum of P995,000.00 was granted only on 20 May 1983. And concluded that it could not be respondent's source of funds in the construction of his house in North Greenhills which was undertaken in 1980.

It is a fact, however, that respondent Bugarin acquired the North Greenhills lot in 1973, with an area of 727 square meters for P87,288.00 from Ortigas and Co, Ltd.[3] He paid a downpayment of P17,448.00, in July 1973, the balance payable in monthly installments of P1,455.00 from July 1973 to September 1977.[4] On July 10, 1973, respondent Bugarin obtained a loan from the GSIS in the amount of P230,000.00.[5] Surely, the installments could be paid with respondent's salary and allowances. With the loan from the GSIS, it more than suffices to capitalize the acquisition of the lot at North Greenhills, San Juan, on installments.

II. Rental income, as disposable fund.--

I beg to disagree that respondent's rental incomes from respondent's realty at Dasmariñas Village (Makati) and Valle Verde 3, Pasig were not derived from lawful sources. I consider the property that produced the rental income as lawfully acquired, so the rentals were lawful incomes on which income taxes were paid. The houses at

Dasmariñas Village and Valle Verde 3 Pasig were lawfully acquired, the rental incomes therefrom must be deemed lawful.

1). Lot and house at Palomaria St., Dasmariñas Village, Makati.

Respondent Bugarin acquired the Dasmariñas lot consisting of 651 square meters by purchase on October 1, 1968 from Ayala Corporation at P91,140.00 or P140.00 per square meter.[6] He made a downpayment on October 1, 1968 of P27,342.00. On November 6, 1968, he paid an installment of P27,342.00. He paid the balance of P36,456.00 in October 1969.[7] He paid for this lot from available funds, savings, sale of assets and short term loans.[8] As said, he had a loan of P100,000.00 from the GSIS obtained on April 23, 1969,[9] which could easily fund the purchase. In 1969, respondent had a residential house constructed on the above-mentioned lot at a cost of P175,900.00. The construction was financed by the loan from the GSIS in the amount of P100,000.00 and from short term loans from PCIB, PNB, and the proceeds of sale of assets. On July 10, 1973, he obtained a loan of P230,000.00 from the GSIS. He used the loan to repay the advances of the contractor and to repay the short term loans. Thereafter, the house was rented for a substantial amount, including advance rentals.

2). Lot at Ipil St., Valle Verde 3, Pasig.--

This lot with an area of 721 square meters was purchased from Ortigas & Co., Ltd. on March 17, 1976,[10] at P263,155.00 or P365.00 per square meter.

The downpayment was P83,000.00 paid on November 4, 1975, and the balance was paid on March 17, 1976. The fund used to acquire this lot came from savings and sale of investment. It will be noted that on July 10, 1973, respondent Bugarin obtained a loan of P230,000.00 from the GSIS.[11] On December 24, 1973, respondent Bugarin obtained a loan of P90,950.00 and on January 13, 1975, he obtained another loan of P90,000.00, both from the PCIBank.[12]

3). Residential house at Valle Verde 3 lot.

In 1978, respondent Bugarin had a three-bedroom house with swimming pool constructed in the above lot. Construction cost was P250,000.00.[13] The construction was funded by a loan from the BPI on November 22, 1977 in the sum of P300,000.00.[14]

4). Residential house at North Greenhills. --

This house was constructed in 1980 at a cost of P650,000.00 on the lot acquired in 1973 from Ortigas and Co., Ltd.[15] The construction was financed from savings, proceeds of sale of investments and short term loans and advances. In 1983, respondent Bugarin was granted a loan of P995,000.00 by the GSIS[16] which he used to repay the advances of the contractor and other suppliers.

5). Residential lot at Quezon City, Transfer Certificate of Title No. 189558.--

This residential lot situated at Capitol District, Quezon City, with an area of 582 square meters, was purchased on March 20, 1973, from BF Homes, Inc. for P72,750.00.[17] This purchase was an installment sale. Respondent Bugarin paid P21,825.00 in cash and the balance amounting to P50,925.00 was paid in installments at P611.00 a month, later increased to P813.00, effective December 1, 1979.

Consequently, we take the view that respondent Bugarin was able to show by clear and convincing evidence that his acquisitions of the above realty were from lawful sources of funds—his salary and allowances, loans, sale of assets and other lawful transactions, and rentals from leased properties.

Finally, we come to the summation.

The ponencia concludes that from 1968 to 1980, respondent Bugarin “amassed wealth in the amount of P2,170,163.00” (at p. 14, ponencia). The total included business and other investments up to 1980 (see ponencia, at p. 4).

On the other hand, respondent’s salary and other lawful income and disposable funds (loans) during the period from 1968 to 1980 may be summarized as follows:

a) Professional fees

P 55,000.00

b) Professional fees from
Africa Law Office

210,000.00

c) Sale of Iloilo Property

15,000.00

c) Salary and allowances,
NBI

486,548.00

TOTAL.....

P766,548.00

(ponencia, pp. 14-15).

Unfortunately, the ponencia did not consider the following lawful income of the respondent, to wit:

a) Representation and transportation
allowance (RATA) and per diems,
Dangerous Drugs Board.....

P 40,450.00

b) Representation and transportation
allowance (RATA), NAPOLCOM

83,400.00

c) Consultancy fees, honorarium, gift,

bonus from Central Bank of the
Philippines
429,000.00[18]

d) Rental income from lease of Dasmariñas
Village and Valle Verde 3
Houses.....
800, 323.00[19]

e) Loans from various sources.....
779,925.00

TOTAL.....
P2,899,646.00

Even the ponencia admitted that the proceeds of loan may constitute disposable funds in capitalizing respondent's property acquisitions and business investments (ponencia, p. 11).[20]

Thus, respondent's total salary and lawful income including disposable funds more than sufficed to fund the respondent's acquisitions and business transactions.

Acquisitions..... P2,170,163.00 (p.15, ponencia)

Lawful salary, income
and available funds..... 2,899,646.00

Excess of lawful income, etc. over acquisitions - - P729,483.00.

IN VIEW WHEREOF, I vote to dismiss the petition and to affirm the appealed decision of the Sandiganbayan.

No costs.

[1] R. A. No. 1379, Section 2

[2] Ibid., Sec. 6.

[3] Exh. "9" and submarkings; Exh. "5-B" and Exh. "5-B-1".

[4] Exhs. "9", "9-B", and "9-B-1".

[5] Exh. "2-B".

[6] Exhs. "1" to "1-C".

[7] Exh. "1-1-C".

- [8] Exhs. “30”, “30-a” and “30-b”.
- [9] Exh. “2-A”.
- [10] Exh. “5-B”.
- [11] Exh. “2-B”.
- [12] Exh. “19”.
- [13] Exh. “6”, testimony of Pablo R. Antonio, Jr.
- [14] Exh. “6-A.”
- [15] Exh. “2-D”.
- [16] Exhs. “2” and “2-C”.
- [17] Exh. “10”.
- [18] Exhs. “34”, “34-A”, “34-B”, “34-C”.
- [19] Respondent’s memorandum, Annex “C”, Rollo, pp. 208-210.
- [20] Republic v. Intermediate Appellate Court, 172 SRA 295 [1989].

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