

**REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG),
PETITIONER, VS. SANDIGANBAYAN, MARIA REMEDIOS ARGANA, ET
AL., RESPONDENTS.**

G.R. No. 115906. September 29, 1994

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the resolutions dated April 6, 1994 and June 16, 1994 of the Third Division of the Sandiganbayan[1] in Civil Case No. 0026, dismissing the amended petition for forfeiture of property which petitioner, through the Solicitor General, had filed in behalf of the Republic of the Philippines against the private respondents.

The facts show that on March 17, 1986 a certain Atty. Victor Aguinaldo wrote the President of the Philippines, requesting investigation of the alleged "unexplained wealth of former Muntinlupa Mayor Maximino Argana, Donata A. Argana, and the Dummies." The letter was referred by the then Minister of Justice to the Presidential Commission on Good Government, or PCGG, which filed, through the Solicitor General, forfeiture proceedings in the Sandiganbayan.

Noting, however, that forfeiture proceedings partake, in some respect, of the nature of a criminal prosecution, the Sandiganbayan on October 28, 1987 directed the PCGG to conduct a "previous inquiry similar to preliminary investigation in criminal cases," as required by sec. 2 of Republic Act No. 1379. Meantime it suspended the proceedings before it.

On February 7, 1990, the PCGG informed the Sandiganbayan that it had conducted "the preliminary investigation . . . and . . . found that there [was] sufficient evidence to support and sustain the allegations in the Petition for forfeiture filed in this case by the Solicitor General." The petition for forfeiture was subsequently amended to include Milagros Argana Rogelio as additional respondent.

On July 5, 1991, private respondents moved to dismiss the case, contending that (1) former Mayor Maximino Argana had died on June 30, 1985 and that his death was a bar to the filing of the petition for forfeiture, and (2) the PCGG had acted beyond its competence in conducting the preliminary investigation.

With respect to the first contention, the Sandiganbayan ruled that the death of former Mayor Argana was not a bar to the forfeiture proceedings because such proceedings are actions in rem, designed to reach properties and, therefore, are not effected by the death of the defendant. However, the Sandiganbayan found the second ground to be meritorious for the reason that under Executive Order No. 1, which created the PCGG, only cases for recovery of ill-gotten wealth acquired because of close association with former President Ferdinand E. Marcos can be investigated by the PCGG. Since there was no allegation that former Mayor Maximino Argana had acquired the properties allegedly ill-gotten by him because of close association with former President Marcos, the PCGG had

no authority to investigate him. Accordingly, the Sandiganbayan ordered:

WHEREFORE, the Motion To Dismiss together with its Supplement, filed by the respondents, through counsel, is hereby granted. As prayed for, the Amended Petition For Forfeiture in the above-entitled case is hereby dismissed but without prejudice to re-filing of the same by the Office of the Solicitor General, if so warranted, after the necessary preliminary investigation shall have first been conducted by the Ombudsman.

Petitioner moved for reconsideration, but its motion was denied by the Sandiganbayan in its resolution dated June 16, 1994. Hence this petition, in which the only issue is whether the PCGG had the power to conduct an investigation as required by sec. 2 of Republic Act No. 1379. We hold that it did. For this reason, the resolutions appealed from, holding that the PCGG had no power to investigate the charges against private respondents and dismissing the forfeiture proceedings against them, are reversed.

In dismissing the proceedings against private respondents, the Sandiganbayan held:

Clearly, from both the letter of Atty. Victor D. Aguinaldo, dated March 17, 1986, and the Amended Petition for forfeiture, dated October 29, 1990, in the case at bar, it is alleged that the late Mayor Maximino Argana unlawfully accumulated wealth by taking advantage of his position as the then incumbent mayor of Muntinlupa, Metro Manila. No attempt was made whatsoever to link the late Mayor Maximino Argana or his accumulation of unexplained wealth to the late President Marcos and/or his family.

It is settled that the jurisdiction of the PCGG to investigate and initiate cases for violation of Republic Act Nos. 3019 (Anti Graft and Corrupt Practices Act) and 1379 (An act Declaring forfeited in Favor of the State Any Property Found to Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing for the Procedure Therefor), in relation to Executive Order Nos. 1, 2, 14 and 14-A, is limited to the recovery of ill-gotten wealth accumulated by former President Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad including the takeover or sequestration of all business enterprises and entities served or controlled by them during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationships (E.O. No. 1, Sec. 2).

In other words, as held by the Supreme Court in the case of Republic vs. Migrino, 189 SCRA 289, promulgated August 30, 1990, for the PCGG to acquire jurisdiction over cases for violations of Republic Act Nos. 3019 and 1379, "(i)t does not suffice that the respondent is or was a government official or employee during the administration of former President Ferdinand E. Marcos. There must be a prima facie showing that the respondent unlawfully accumulated wealth by virtue of his close association or relation with former President Marcos and/or his wife. This is so because the respondent's case will fall under general laws and procedures on the matter.

Contrary to the ruling of the Sandiganbayan, the power of the PCGG to conduct preliminary investigation of cases of this nature does not extend only to cases brought to recover ill-gotten wealth accumulated by former President Marcos or his close associates but includes as well cases of graft and corruption assigned by the President to the PCGG for investigation. Thus, sec. 2 of Executive Order No. 1, creating the PCGG, provides:

Sec. 2. The Commission shall be charged with the task of assisting the President in regard to the following matters:

(a) The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship.

(b) The investigation of such cases of graft and corruption as the President may assign to the Commission from time to time.

As already stated, this case originated in a letter sent to then President Corazon C. Aquino which the Minister of Justice referred to the PCGG on March 19, 1986. The jurisdiction of the PCGG, therefore, derived from par. (b) of sec. 2 which, unlike par. (a), does not require as an element that the accused took advantage of his close association with President Marcos in committing graft and corruption. The case at bar is distinguishable from *Republic v. Migrino*,^[2] which the Sandiganbayan cited in support of its ruling, in that unlike the *Migrino* case the complaint in this case was assigned by the President to the PCGG for investigation. In the *Migrino* case we held that the PCGG did not have the power to investigate and prosecute charges of unexplained wealth brought against the private respondent where there was no *prima facie* showing that he had unlawfully accumulated wealth by virtue of close association or relation with former President Marcos and/or his wife as required by sec. 2(a) of Executive Order No. 1. But although there is neither allegation nor showing in the case at bar that former Mayor Argana had unlawfully acquired his wealth by reason of close association with former President Marcos, the PCGG had jurisdiction to conduct the investigation because this is a case of graft and corruption assigned to it by the President of the Philippines pursuant to sec. 2(b) of Executive Order No. 1.

It is noteworthy that, in its earlier resolution of October 28, 1987 returning this case to the PCGG for a "previous inquiry similar to preliminary investigation," the Sandiganbayan had upheld the power of the PCGG to conduct a preliminary investigation on precisely the basis of sec. 2(b) of Executive Order No. 1. Thus it ruled:

Subsequent statutes, however, have eroded the exclusivity of the Tanodbayan's authority to investigate and prosecute cases under the jurisdiction of the Sandiganbayan. By Executive Order No. 1 dated February 28, 1986, the Presidential Commission on Good Government (PCGG for short) was created and charged with the task of assisting the President, among others, in:

"(a) The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, . . . by taking undue advantage of their powers, authority, influence, connections or relationship.

"(b) The investigation of such cases of graft and corruption as the President may assign to Commission (PCGG) from time to time." (Sec. 2.)

Apparently, the Sandiganbayan was persuaded to reverse itself because of a misapprehension of the true import of our decision in *Republic v. Migrino*. For what has not been sufficiently noticed is that complaints for graft and corruption, although not committed because of close association with former President Marcos, can be investigated by the PCGG if directed by the President of the Philippines.

In accordance with sec. 1 of Executive Order No. 14, dated May 7, 1986, the PCGG, with the assistance of the Solicitor General, is the agency of the government empowered to bring these proceedings for forfeiture of property allegedly acquired unlawfully before February 25, 1986, the date of the EDSA Revolution. The power to investigate cases of ill-gotten or unexplained wealth acquired after that date is now vested in the Ombudsman.^[3]

WHEREFORE, the resolutions appealed from are REVERSED and the case is REMANDED to the Sandiganbayan for further proceedings.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Puno, JJ., concur.

Padilla, J., on leave.

[1] Per Associate Justice Sabino R. de Leon, Jr. with the concurrence of Associate Justices Regino Hermosisima, Jr. and Cipriano A. del Rosario.

[2] 189 SCRA 289, 298 (1990).

[3] Republic v. Sandiganbayan, 200 SCRA 667 (1991).

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