

TIRSO ANTIPORDA, JR., JULIET C. BERTUBEN, IDE TILLAH, SERGIO OSMEÑA III, JAIME CALPO, EMMANUEL CRUZ, RICARDO DE LA CRUZ, AND PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), P...*G.R. No. 116941. May 31, 2001*

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-116941/>**YNARES-SANTIAGO, J.:**

This is a petition for certiorari assailing the Resolution of August 16, 1994 of the Second Division of the Sandiganbayan which denied for lack of merit the motion to dismiss Civil Case No. 0162, entitled "Eduardo M. Cojuangco, et al. v. Tirso Antiporda, et al." The said case was a petition for quo warranto filed in May 1994, seeking the nullification of the election on April 19, 1994 of the nominees of the Presidential Commission on Good Government (PCGG) to the Board of Directors of San Miguel Corporation (SMC).

In April and May 1986, the PCGG issued several writs of sequestration over the shares of forty-two (42) corporations[1] upon a prima facie finding that these were ill-gotten. The PCGG alleged that these corporations, which were beneficially owned and/or controlled by Eduardo M. Cojuangco, Jr., were the registered owners of a block of shares of the San Miguel Corporation (SMC) that was sufficient to elect at least seven (7) of the fifteen-member SMC Board of Directors.

Through counsel Estelito P. Mendoza, the said corporations filed with the Sandiganbayan SB No. 0110, "Primavera Farms, et al. v. PCGG," a petition for certiorari and prohibition with prayer for the issuance of a writ of injunction. The petition prayed for the lifting of the writs of sequestration on two grounds: (1) that there was no prima facie determination of the alleged illegality of the acquisition of shares of the corporations; and (2) that the writs of sequestration were deemed to have been automatically lifted when the PCGG failed to comply with Section 26, Article XVIII of the Constitution requiring that the judicial action against the subjects of such writs, if issued prior to the ratification of the Constitution, should be filed within six (6) months from such ratification. Subsequently, however, petitioner-corporations, after presenting evidence, withdrew the first ground of the petition and opted for the resolution of its petition on the basis of the second ground. They cited as basis for the motion to withdraw, the Resolution of this Court in PCGG v. International Copra Export Corporation, et al.[2] and the Decision in Republic v. Sandiganbayan,[3] to the effect that a writ of sequestration would be automatically lifted upon the lapse of a six-month period from the issuance of said writ and no judicial action was filed.

Acting on the motion to withdraw, the Sandiganbayan, on April 8, 1992, before the PCGG could even commence presentation of evidence, issued a Resolution[4] granting the petition and lifting the writs of sequestration over petitioner-corporations. In so ruling, the Sandiganbayan Third Division said:

We agree with petitioners-movants that no issues of fact are involved in the instant petition, and that, hence, the petition can be decided on the basis of the existing law and the records. Indeed, the only issue to be

resolved is whether or not the writs or orders of sequestration are deemed to have been automatically lifted for failure of the respondent PCGG to file the corresponding judicial action within the period prescribed by the Constitution, for it is undisputed that the shares of stock in the San Miguel Corporation of the herein petitioners were sequestered by the PCGG. The records also reveal that as of August 2, 1987, six months after the ratification of the Constitution, no judicial action was filed against the petitioners in connection with the sequestrations. The granting of this motion will expedite the wheels of justice and consequently benefit both parties in terms of savings in time and effort.

Respondent PCGG contends that since it has not yet presented its evidence, the granting of this motion will violate its right to due process, and, furthermore, will render moot and academic its petition for certiorari in the Supreme Court which seeks to nullify our resolution denying its motion to consolidate this case with Civil Case No. 0033 which is pending with the First Division of this Court.

These objections are not well-taken. By the withdrawal of the first ground of the petition, the validity of the sequestration orders in question is not anymore in issue. Accordingly, there is no more need to show by evidence the prima facie basis for the issuance of the writs of sequestration for the second ground of the petition hypothetically admits their validity. It bears noting at this juncture that the petition, although citing two grounds therefor, prays for a single relief that is, a judicial declaration from the Court that the writs of sequestration here involved have been automatically lifted as of August 2, 1987 pursuant to the express provision of the Constitution, and, concomitantly, an injunction against the respondent from interfering with the petitioners' exercise of their rights in respect of their shareholdings in the San Miguel Corporation. No damages are claimed against the respondent.

The secondary contention that the first issue is intimately connected with the second issue and that the resolution of the first will weigh heavily on the second is untenable. The two issues are independent of each other - the first focuses on the validity of the writs of sequestration while the second relates to the effect of the respondent's failure to file the corresponding judicial action in accordance with the express mandate of the Constitution. It is not imperative to resolve both issues. As explained hereinabove, resolution of the second issue is sufficient to decide the petition.[5]

The Sandiganbayan's Third Division also ruled that there was no need to consolidate the case with Civil Case No. 0033 even though a third amended complaint impleading the petitioner-corporations was already admitted by the First Division of the Sandiganbayan. Aside from the fact that the issue had been resolved in the Resolution of September 27, 1991, the admission of the third amended complaint did not result in the revival or reinstatement of the writs of sequestration that had automatically lapsed or ceased to be effective as of August 2, 1987.

On April 20, 1992, the PCGG filed with this Court a petition for review assailing the above-quoted Sandiganbayan Resolution, which petition was docketed as G.R. No. 104850 and entitled "PCGG v. Agricultural Consultancy Services, Inc." The petition also prayed for the issuance of a writ of preliminary injunction to enjoin the registered owners of the sequestered corporate shares in SMC from voting said shares in the stockholders' meeting scheduled on April 21, 1992. On the same day that the petition was filed, this Court issued a temporary restraining order (TRO) enjoining the therein private respondent corporations and the Sandiganbayan to cease and desist from enforcing the "questioned Resolution of April 8, 1992 in Civil Case No. 0110, entitled 'Primavera Farms, Inc., et al. v. Presidential Commission on Good Government (PCGG),' and from exercising the right to vote the subject shares at the stockholders meeting set on April 21, 1992." [6]

Consequently, at the stockholders' meeting on April 21, 1992, the respondent corporations in G.R. No. 104850 were not allowed to vote their shares. The fifteen men who were elected directors then were the following:

1. Andres Soriano III
9. Teodoro Locsin, Jr.

2. Benigno P. Toda, Jr.
10. Enrique Herbosa
3. Francisco C. Eizmendi, Jr.
11. Juan J. Carlos
4. Eduardo J. Soriano
12. Fritz Jemperle
5. Estelito P. Mendoza
13. Renato C. Valencia
6. Benjamin Zialcita III
14. Domingo Lee
7. Antonio J. Roxas
15. Oscar Hilado[7]
8. Ramon Sy

Notably, the only director elected from the Cojuangco group was Estelito P. Mendoza.[8]

The following year, the PCGG again filed in G.R. No. 104850 an urgent petition for the issuance of a TRO against the respondent corporations to enjoin them from voting their shares in the stockholders' meeting on April 21, 1993. On April 14, 1993, this Court issued a Resolution restraining the respondent corporations "from exercising the right to vote the subject shares" at the said stockholders' meeting.[9] Thus, the PCGG voted the sequestered shares, and prevented anyone from the Cojuangco group from getting elected in the SMC Board of Directors.

For the 1993-1994 term of the SMC Board of Directors, the PCGG voted 119,673,436 shares of the sequestered corporations,[10] thereby resulting in the election for that term of the government nominees to all 15 seats.[11] The Cojuangco group that included Estelito P. Mendoza, Enrique M. Cojuangco, Manuel M. Cojuangco, Marcos O. Cojuangco, Gabriel L. Villareal, and Douglas Lu Ym, landed in the 16[th] to 21[st] places and hence, failed to get elected.[12]

On May 13, 1993, the losing candidates for the SMC board filed with the Sandiganbayan a petition for quo warranto, docketed as Civil Case No. 0150 and entitled "Enrique Cojuangco, et al. v. Jaime Calpo, et al." Petitioners therein contended that: (a) the directors who were nominated by the government were not even qualified to be nominees for membership in the SMC Board of Directors as they did not own 5,000 SMC shares in their own name as required by SMC's by-laws, and (b) the PCGG did not have the authority to exercise the right to vote the sequestered shares. Considering that they owned shares of stock in the SMC, the members of the Cojuangco group would have occupied places Nos. 9 to 14 among the duly elected members of the SMC Board of Directors.

Moreover, petitioners invoked this Court's ruling in *Cojuangco v. Roxas*,[13] that the PCGG does not have the authority to vote sequestered shares, and averred that the votes cast by the PCGG's nominees should have been deducted from the total votes cast. The result would have Estelito P. Mendoza, Enrique M. Cojuangco, and

Manuel M. Cojuangco in the 13[th] to the 15[th] places.[14]

For their part, the private respondents (the Antiporda group) in Civil Case No. 0150 countered that the petition was improper because the issue of the PCGG's right to vote the sequestered shares was still the subject of litigation before this Court in G.R. No. 104850. The proper recourse for the Cojuangco group would have been to intervene in the said case.[15]

On March 14, 1994, the Sandiganbayan's Third Division rendered the Decision[16] in Civil Case No. 0150 dismissing the petition for quo warranto.[17] Said Decision was anchored on this Court's Resolution of February 16, 1993 in G.R. No. 96073 which suspended the lifting of the sequestration decreed by the Sandiganbayan in Civil Case No. 0033 (Republic v. Cojuangco) and allowed the PCGG "to continue voting the shares of stocks under sequestration." We ruled that said Resolution was also applicable to Civil Case No. 0150 because G.R. No. 96073 was "related" to G.R. No. 104850; in fact, this Court ordered the consolidation of those cases. The rationale for the said Resolution in G.R. No. 96073, i.e., the coconut levy funds were "clearly affected with public interest," was similar to the rationale for the April 14, 1993 Resolution in G.R. No. 104850, i.e., the prima facie determination that the funds used in putting up the corporations that invested shares in the SMC were "ill-gotten wealth" within the contemplation of Executive Order Nos. 1, 2 and 14.[18]

The Cojuangco group filed a motion for the reconsideration of said Decision, however, the Sandiganbayan denied the same on April 29, 1994.

Meanwhile, the government filed another motion in G.R. No. 104850 praying that the registered owners of the sequestered shares be enjoined from voting the said shares. This Court issued a Resolution on April 19, 1994 once again enjoining the sequestered corporations from exercising the right to vote during the SMC stockholders' meeting scheduled for that same day, April 19, 1994. Prior to the meeting, Chairman Magtanggol Gunigundo informed SMC Corporate Secretary Jose Feria that the PCGG was nominating eight (8) persons to the SMC Board. For their part, the Cojuangco group also submitted the names of Eduardo Cojuangco, Jr., Enrique M. Cojuangco, Estelito P. Mendoza, Gabriel L. Villareal and Rafael G. Abello as its nominees. Because of the TRO issued by the Court on April 19, 1994, no one from the Cojuangco group was elected.[19]

Consequently, on May 18, 1994, the Cojuangco group instituted another petition for quo warranto before the Sandiganbayan, docketed as Civil Case No. 0162. The petition named the herein petitioners (Antiporda group) as respondents and prayed that they be "ousted from the SMC Board for not owning the requisite number of qualifying shares of stock" and, in their stead, the Cojuangco group should be declared members of the same Board. They also prayed that therein private respondents Jaime Calpo, Emmanuel Cruz and Ricardo R. de la Cruz should be "ousted for not having more votes than petitioners Enrique M. Cojuangco, Manuel M. Cojuangco and Estelito P. Mendoza who should in their place be declared duly elected members" of the SMC Board.[20]

Respondent Antiporda group filed a motion to dismiss the petition on the ground of res judicata. Later, when the Cojuangco group filed with this Court G.R. No. 115352 (Eduardo Cojuangco, et al. v. Sandiganbayan, et al.), the Antiporda group changed their ground for dismissal of the petition into one of auter action pendant, i.e., the pendency of another action between the same parties for the same cause. Further, their motion to dismiss also alleged that the petition stated no cause of action as the issue to be resolved, i.e., whether they could be ousted as SMC directors, was dependent on the outcome of G.R. Nos. 96073 and 104850.[21]

The Cojuangco group opposed the motion to dismiss on the grounds that the doctrine of res judicata was inapplicable and the petition stated a cause of action pursuant to Rule 66 of the Rules of Court.[22] In their reply, the Antiporda group countered that the Cojuangco group should be deemed to have admitted that all the issues raised in their petition were reiterations verbatim of their previous petition for quo warranto over the same block

of shares. The Antiporda group also asserted that: (a) Cojuangco, et al. never denied that the factual foundations of the petition were the same as those in the previous petition so that there could not have been an abandonment of the ruling already laid down by the Sandiganbayan; (b) only this Court can overturn a ruling of a Division of the Sandiganbayan; (c) the Second Division of the Sandiganbayan was obliged to apply the ruling of the same court's Third Division and to dismiss the petition; (d) the Third Division squarely ruled on the government's right to vote sequestered shares; (e) the doctrine laid down in *Cojuangco v. Azcuna* and *Cojuangco v. Roxas*[23] had been superseded by this Court's Resolution of February 16, 1993 in G.R. No. 96073 and by the Resolutions in G.R. No. 104850.[24]

Thereafter, the Antiporda group filed an answer ad cautelam[25] asserting in the main that the petition was barred by prior judgment and that it stated no cause of action.

It appearing that on June 29, 1994, the Cojuangco group had filed with this Court a petition for review on certiorari of the Decision in Civil Case No. 0150, the Antiporda group filed a motion for leave to file and admit a supplemental motion to dismiss. They argued in their supplemental motion to dismiss that by the filing of the said petition for review, the subject petition for quo warranto should be dismissed on account of *litis pendentia*. [26]

On August 16, 1994, the Sandiganbayan Second Division issued a Resolution[27] denying the motion to dismiss.[28] It ruled that the Decision in Civil Case No. 0150 was not yet final considering that it was elevated to this Court in G.R. No. 115352. Anent the ground that the petition stated no cause of action, the Sandiganbayan held that the requisites for a petition for quo warranto under Rule 66 had been met. The petition stated the names of respondents who were allegedly usurping, intruding into or unlawfully holding the office of SMC director. The petition cited two grounds that rendered illegal the respondents' election to the SMC Board of Directors: (1) respondents did not own the required number of shares that would qualify them for nomination to the board; and (2) the PCGG was not authorized to vote the sequestered corporate shares. The petitioners therein further claimed that they would have been elected to the contested seats in the SMC Board of Directors.

With respect to the applicability of the doctrine of *litis pendentia*, the Sandiganbayan ruled that in order to warrant the dismissal of the petition, the result of the first case must be determinative of the second case. Moreover, there was no identity of parties between the two cases as Eduardo Cojuangco, Jr. and Rafael Abello were not petitioners in Civil Case No. 0150, while Sergio Osmeña III was not a respondent in said case. There was no identity of causes of action because Civil Case No. 0150 referred to the term of the SMC Board of Directors for 1993-1994, while the present case involved the term for 1994-1995. The Court added:

Lastly, the judgments in G.R. No. 115352 and G.R. No. 104850 will not necessarily amount to *res judicata* in this case. G.R. No. 115352, as already discussed pertains to the SMC Board of Directors term for the year 1993 to 1994. G.R. No. 104850, on the other hand, is a petition for certiorari questioning the Resolution of this Court dated April 6, 1992 lifting the writs of sequestration on the ground that no judicial action was filed by the Commission within six (6) months from the effectivity of the Constitution pursuant to Sec. 26, Article XVIII thereof.

It has been held in *J. Northcott and Co. v. Villa-Abrille*, 41 SCRA 465, that the defense of former action pending does not go to the merits. Even when sustained, the result is merely the dismissal of the action, and the defendant is not absolved altogether from the demand. In other words, the defense is more or less of a dilatory nature and hence is not much favored by the courts. It is therefore accepted doctrine that all of the conditions requisite to the validity of the defense must be strictly fulfilled." [29]

Instead of filing a motion for reconsideration, the Antiporda group filed the instant petition for certiorari alleging that the Sandiganbayan gravely abused its discretion amounting to lack of jurisdiction in denying the motion to dismiss because:

- A -

RESPONDENT COURT SHOULD HAVE DISMISSED CIVIL CASE NO. 0162 OUTRIGHT SINCE PRIVATE RESPONDENTS ARE GUILTY OF FORUM SHOPPING.

- B -

PETITIONERS HEREIN WERE DULY ELECTED DIRECTORS OF THE SAN MIGUEL CORPORATION BECAUSE:

- THE LANGUAGE OF THE THREE (3) TEMPORARY RESTRAINING ORDERS ISSUED BY THIS HONORABLE COURT IN G.R. NO. 104850, TAKEN IN CONJUNCTION WITH THE RESOLUTION OF 13 FEBRUARY 1993, IN G.R. NO. 96073, LEAVES NO ROOM FOR DOUBT THAT THE PCGG HAS BEEN GIVEN THE RIGHT TO VOTE THE SUBJECT SHARES OF THE STOCKHOLDERS MEETINGS IN SMC.

- THE REQUIREMENT THAT A PERSON MUST OWN AT LEAST 5,000 SHARES REGISTERED (IN) HIS OWN NAME TO QUALIFY HIM TO BE ELECTED AS A DIRECTOR DOES NOT APPLY TO THE CASE AT BAR.

- EVEN ASSUMING THAT THE 5,000-SHARE REQUIREMENT WERE APPLICABLE, THOSE SHARES COULD HAVE VALIDLY BEEN TAKEN BY THE CORPORATE SECRETARY OF SMC FROM THE SO-CALLED "CARP" SHARES OF THE GOVERNMENT IN SMC, WHICH NUMBERED MORE THAN 5,000,000 SHARES, FOR THE PURPOSE OF QUALIFYING ITS NOMINEES.

- C -

CONFLICTING DECISIONS MAY RESULT SHOULD THE INSTANT CASE PROCEED.

As a rule, this Court will not take cognizance of a petition for certiorari under Rule 65 unless the lower court has been given the opportunity to correct the error imputed to it.[30] Petitioners did not file a motion for reconsideration of the Resolution denying their motion to dismiss and hence, this petition should be dismissed outright.[31] We find, however, that a strict adherence to the rule will result in further and unjust delay in the disposition of this case. As this Court once said, "(l)aws and rules should be interpreted and applied not in a vacuum or in isolated abstraction but in the light of surrounding circumstances and attendant facts in order to afford justice for all." [32] Considering further that public interest is involved in this case, the issues raised in the instant petition shall now be addressed, as an exception to said rule.

Petitioners allege that the Sandiganbayan should have dismissed Civil Case No. 0162 on the ground of forum-shopping because private respondents had filed Civil Case No. 0150 "questioning the validity of the election of the directors for the term 1993-1994." In the same breath, however, they allege that although the Third Division of the Sandiganbayan had rendered a decision on the merits in Civil Case No. 0150, the case remained "unresolved as of this date," meaning the date of filing of the instant petition for certiorari.[33] Petitioners' contention is bereft of merit.

There is forum-shopping where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other.[34] *Litis pendentia* or *auter action pendant* exists if the following requisites are present: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[35]

As correctly observed by the Sandiganbayan, there was no identity of parties between Civil Cases Nos. 0150 and

0162. In both cases only four of the petitioners are identical - Enrique M. Cojuangco, Manuel M. Cojuangco, Estelito P. Mendoza and Gabriel J. Villareal. The fifth and sixth petitioners are, however, different - Marcos O. Cojuangco and Douglas Lu Ym in Civil Case No. 0150, and Eduardo Cojuangco, Jr. and Rafael G. Abello in Civil Case No. 0162. With respect to the private respondents, six of them are respondents^[36] in both cases. However, a private respondent in Civil Case No. 0150, Juan J. Carlos, is not impleaded in Civil Case No. 0162 where Sergio Osmeña III is named respondent in his stead. The non-identical parties in the two cases can only mean that these cases involve different elections of the SMC Board of Directors - the April 20, 1993 election in Civil Case No. 0150 and the April 19, 1994 election in Civil Case No. 0162. There are indeed similarities in the rights asserted and the relief prayed for in the two cases, viz., the petitioners were the rightful nominees to the SMC Board of Directors and should have been elected thereto, and that private respondents should be ousted from the same board. Nevertheless, the judgment in Civil Case No. 0150 would not necessarily amount to *res judicata* in Civil Case No. 0162. *Res judicata* applies only where judgment on the merits is finally rendered in the first case.^[37] As earlier noted, petitioners themselves admit that Civil Case No. 0150 remained "unresolved" when the instant petition was filed; even if the judgment in said case would have been rendered, there could be no *res judicata* because the two cases involve two different elections of the SMC Board of Directors. There is thus no merit in their contention that the Sandiganbayan should have dismissed Civil Case No. 0162 on the ground of forum-shopping.

Neither is there merit in petitioners' assertion that the Sandiganbayan abused its discretion amounting to lack of jurisdiction in denying their motion to dismiss Civil Case No. 0162.

The pivotal issue in this case is whether or not the PCGG may vote the shares of the sequestered corporations in the April 19, 1994 election of the SMC Board of Directors. Said issue was directly addressed by the Court in the Resolution of June 10, 1997 in G.R. No. 115352, that finds its origin in Civil Case No. 0150. The Court said:

While at first blush the issues referred to by the parties appear to be merely legal, and ripe for resolution by this Court, a deeper analysis shows the need for some factual moorings. The issue of whether PCGG may vote the sequestered shares in San Miguel Corporation necessitates a determination of at least two factual matters:

1. Whether there is *prima facie* evidence showing that the said shares are ill-gotten and thus belong to the state; and
2. Whether there is an immediate danger of dissipation thus necessitating their continued sequestration and voting by the PCGG while the main issue pends with the Sandiganbayan.

The foregoing two points require presentation of evidence which can be done only before the Sandiganbayan, it being settled that the Supreme Court is not a trier of facts.

The Court thus remanded G.R. No. 115352 to the Sandiganbayan for further proceedings. Similarly, in the Resolution of January 28, 1999 in G.R. No. 133197, entitled "Presidential Commission on Good Government v. Eduardo Cojuangco, Jr., et al."^[38] which involved the election of SMC Board of Directors on April 21, 1998, the Court remanded the case to the Sandiganbayan for further proceedings. The basis for the Court's ruling in that case was the aforequoted portion of the Resolution in G.R. No. 115352. The Court cannot therefore rule otherwise in this case.

It may be added that the ruling in G.R. No. 115352, requiring a definitive factual finding on the origins of the sequestered corporate shares, is impelled by the nature of a writ of sequestration issued by the PCGG. By such writ, property claimed to be "ill-gotten" is placed under the possession or control of the PCGG for the purpose of preventing its destruction, concealment or dissipation, and otherwise conserving and preserving the same until it is determined through appropriate judicial proceedings that such property was "acquired through or as a result of

improper or illegal use of or the conversion of funds belonging to the Government or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of official position, authority, relationship, connection or influence, resulting in unjust enrichment of the ostensible owner and grave damage and prejudice to the State." [39] Thus, in *Cojuangco, Jr. v. Roxas*, [40] this Court said:

The rule in this jurisdiction is, therefore, clear. The PCGG cannot perform acts of strict ownership of sequestered property. It is a mere conservator. It may not vote the shares in a corporation and elect the members of the board of directors. The only conceivable exception is in a case of a takeover of a business belonging to the government or whose capitalization comes from public funds, but which landed in private hands as in *BASECO*.

The constitutional right against deprivation of life, liberty and property without due process of law is so well-known and too precious so that the hand of the PCGG must be stayed in its indiscriminate takeover of and voting of shares allegedly ill-gotten in these cases. It is only after appropriate judicial proceedings when a clear determination is made that said shares are truly ill-gotten when such takeover and exercise of acts of strict ownership by the PCGG are justified. (*Italics supplied.*)

It is thus important to determine first if the sequestered corporate shares came from public funds that "landed in private hands." Notably, this Court decided G.R. Nos. 96073 and 104850 that had been consolidated with other cases, [41] on January 23, 1995, [42] by nullifying the Sandiganbayan Resolutions of November 19, 1990 in G.R. No. 96073 and of April 8, 1992 in G. R. No. 104850. It disposed of the consolidated cases as follows:

It is thus both needful and timely to pronounce that:

- 1) Section 26, Article XVIII of the Constitution does not, by its terms or any fair interpretation thereof, require that corporations or business enterprises alleged to be repositories of "ill-gotten wealth," as the term is used in said provision, be actually and formally impleaded in the actions for the recovery thereof, in order to maintain in effect existing sequestrations thereof;
- 2) complaints for the recovery of ill-gotten wealth which merely identify and/or allege said corporations or enterprises to be the instruments, repositories or the fruits of ill-gotten wealth, without more, come within the meaning of the phrase "corresponding judicial action or proceeding" contemplated by the constitutional provision referred to; the more so, that normally, said corporations, as distinguished from their stockholders or members, are not generally suable for the latter's illegal or criminal actuations in the acquisition of the assets invested by them in the former;
- 3) even assuming the impleading of said corporations to be necessary and proper so that judgment may comprehensively and effectively be rendered in the actions, amendment of the complaints to implead them as defendants may, under existing rules of procedure, be done at any time during the pendency of the actions thereby initiated, and even during the pendency of an appeal to the Supreme Court - a procedure that, in any case, is not inconsistent with or proscribed by the constitutional time limits to the filing of the corresponding complaints 'for' - i.e., with regard or in relation to, in respect of, or in connection with, or concerning - orders of sequestration, freezing, or provisional takeover. [43]

A reiteration of this pronouncement is imperative. It should serve as a guide to the Sandiganbayan in the final disposition of all cases involving the sequestered corporate shares attributed in beneficial ownership to private respondent Eduardo Cojuangco, Jr.

WHEREFORE, in view of the foregoing, the petition is **DISMISSED**. The Sandiganbayan Resolution of August 16, 1994, denying for lack of merit the herein petitioners' motion to dismiss, is **AFFIRMED**. The Sandiganbayan is directed to proceed with deliberate dispatch the resolution of Civil Case No. 0162.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Pardo, JJ., concur.
Kapunan, J., on leave.

[1] These corporations are: Agricultural Consultancy Services, Inc., Archipelago Realty Corporation, Balete Ranch, Inc., Christensen Plantation Company, Cocoa Investors, Inc., Discovery Realty Corporation, Dream Pastures, Inc., Echo Ranch, Inc., Far East Ranch, Inc., First United Transport, Inc., Habagat Realty Development, Inc., Kalawakan Resorts, Inc., Kaunlaran Agricultural Corporation, Labayog Air Terminals, Inc., Landair International Marketing Corporation, LHL Cattle Corporation, Meadow Lark Plantation, Inc., Metroplex Commodities, Inc., Misty Mountains Agricultural Corporation, Northern Carriers Corporation, Northwest Contract Traders, Inc., Ocean Side Maritime Ent., Inc., Oro Verde Services, Pastoral Farms, Inc., PCY Oil Manufacturing Corporation, Philippine Technologies, Inc., Primavera Farms, Inc., Punong-Bayan Housing Development Corporation, Pura Electric Company, Inc., Radio Audience Development Integrated Organization, Inc., Radio Pilipino Corporation, Rancho Grande, Inc., Reddee Developers, Inc., San Esteban Development Corporation, Southern Luzon Oil Mills, Inc., Silver Leaf Plantation, Inc., Southern Star Cattle Corporation, Spade One Resorts Corporation, Unexplored Land Developers, Inc., Verdant Plantations, Inc., Vesta Agricultural Corporation, and Wings Resort Corporation.

[2] G.R. No. 92755. In the Minute Resolution of October 2, 1990, the Court dismissed the petition questioning the Sandiganbayan's ruling that the separate writs of sequestration issued by the PCGG against International Copra Export Corporation and Interco Manufacturing Corporation were deemed lifted on account of the failure of the PCGG to file the proper judicial action or proceedings against the said corporations within six months from the issuance of the writs pursuant to Sec. 26, Art. XVIII of the Constitution. The Court held further that the PCGG'S filing of Civil Case No. 0033 against Eduardo Cojuangco, Jr. and 61 other defendants alleged to be his dummies or nominees, including Enrique Luy, was not sufficient compliance with the said constitutional provision because "a suit against any of the stockholders is not ipso facto a suit against the corporation itself."

[3] G.R. No. 92376, 200 SCRA 530, (1991). The Court ruled that since the PCGG had not instituted the corresponding judicial action against the eight (8) stockholders involved, the writs of sequestration theretofore issued against them had ceased to be effective.

[4] Penned by Associate Justice Conrado M. Molina and concurred in by Associate Justices Augusto M. Amores and Sabino R. de Leon, Jr.

[5] Rollo, pp. 87-88.

[6] Ibid., p. 93.

[7] Ibid., p. 8.

[8] Ibid., p. 9.

[9] Ibid., p. 95.

[10] The corporations are those enumerated in footnote No. 1 plus Black Stallion Ranch, Inc., Realty Development, Inc., and Lucena Oil Factory.

[11] The elected candidates were: Renato C. Valencia, Teodoro L. Locsin, Jr., Jaime Calpo, Tirso Antiporda, Jr., Juliet Bertuben, Ide Tillah, Cesar N. Sarino, Andres Soriano III, Francisco Eizmendi, Jr., Antonio J. Roxas, Juan

J. Carlos, Emmanuel Cruz, and Ricardo R. de la Cruz.

[12] Rollo, pp. 10-11.

[13] 195 SCRA 797 (1991).

[14] Rollo, pp. 96 to 131.

[15] Ibid., pp. 13-14.

[16] Penned by Associate Justice Sabino R. de Leon, Jr. and concurred in by Associate Justices Regino Hermosisima, Jr. and Cipriano A. del Rosario.

[17] Rollo, pp. 132-150.

[18] These executive orders authorized the issuance of writs of sequestration for wealth that are suspected to be ill-gotten.

[19] Ibid., pp. 17-18.

[20] Ibid., pp. 193-223.

[21] Ibid., pp. 225-259.

[22] Ibid., pp. 261-279.

[23] Supra.

[24] Rollo, pp. 313-323.

[25] Ibid., pp. 324-353.

[26] Ibid., pp. 355-363.

[27] Penned by Associate Justice Augusto M. Amores and concurred in by Associate Justices Romeo M. Escareal and Minita Chico-Nazario.

[28] Rollo, pp. 22 & 60-69.

[29] Rollo, p. 68.

[30] Siasoco v. Court of Appeals, 303 SCRA 186, 193 (1999) citing Liberty Insurance Corporation v. Court of Appeals, 222 SCRA 37 (1993).

[31] Escorpizo v. University of Baguio, 306 SCRA 497, 501-502 (1999).

[32] Nepomuceno v. Court of Appeals, 303 SCRA 679, 682 (1999) citing Magsaysay Lines, Inc. v. Court of Appeals, 329 Phil. 312 (1995).

[33] Petition, p. 26.

[34] Cruz v. Court of Appeals, 309 SCRA 714, 722 (1999); Prubankers Association v. Prudential Bank & Trust Company, 302 SCRA 74, 83 (1999).

[35] Prubankers Association v. Prudential Bank & Trust Company, supra, citing Buan v. Lopez, Jr., G.R. No. 75349, October 13, 1986, et seq.

[36] They are: Tirso Antiporda, Jr., Juliet C. Bertuben, Ide Tillah, Jaime Calpo, Emmanuel Cruz and Ricardo R.

dela Cruz.

[37] Cruz v. Court of Appeals, *supra*, at p. 724.

[38] 302 SCRA 217 (1999).

[39] Bataan Shipyard & Engineering Co., Inc. v. PCGG, 150 SCRA 181, 209 (1987).

[40] 195 SCRA 797, 813 (1991).

[41] These cases are: G.R. Nos. 104065, 104167, 104168, 104679, 104883, 105170, 105205, 105206, 105711-12, 105808, 105809, 105850, 106176, 106765, 107233, 107908, 109314 and 109592.

[42] 310 Phil. 401 (1995).

[43] *Ibid.*, at p. 516.

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