

IMELDA MARCOS, PETITIONER, VS., THE HONORABLE COURT OF APPEALS; HONORABLE JUDGE GUILLERMO L. LOJA, SR., THE PRESIDING JUDGE OF BRANCH 26 OF THE RTC AT MANILA; AND THE PEOPLE OF ...

G.R. No. 126594. September 05, 1997

Ponente: REGALADO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-126594/>

REGALADO, J.:

In a petition for review on certiorari filed on November 5, 1996, petitioner Imelda R. Marcos prays this Court to set aside the decision of respondent Court of Appeals promulgated in CA-G.R. SP No. 35719 on May 23, 1996, as well as its resolution of September 27, 1996 denying her motion for the reconsideration of the judgment in said case.[1]

Preliminary, her motion for extension of time to file this petition was denied for non-compliance with Revised Circular No. 1-88 and Circular No. 19-91 because the affidavit of service, although otherwise sufficient in form and substance, was not signed by the affiant, and the registry receipt proving service of a copy of said motion to the Solicitor General was not attached thereto. Hence, the petition subsequently filed by her was dismissed for having been filed out of time in this Court's resolution of November 27, 1996.[2]

Petitioner then moved for reconsideration, explaining the cause for the procedural lapses and contending that, on the merits, the trial court had no jurisdiction over the offenses charged; that no offenses actually charged or that the facts alleged do not constitute the imputed offenses; and, consequently, that the court a quo gravely abused its discretion in denying the motion to quash.

Considering the number of criminal cases filed against petitioner, relief from which is sought in the petition at bar and the issues wherein may possibly be raised again in other cases of a similar nature, the Court resolved on February 24, 1997 to require the Solicitor General to comment thereon, in order that the adjudication of petitioner's complaints may not go off only on procedural points. In due time, such comment was filed, albeit in abbreviated form, the Solicitor General correctly pointing out that all the substantive issues now being raised before us had also been extensively argued in and resolved by respondent appellate court.

Indeed, an overall review of the allegations in the present petition reveals that the same are merely a rehash of those already submitted to respondent court and that this petition is apparently a reprise of the certiorari petition in CA-G.R. SP No. 35719 filed in the Court of Appeals.

For facility of presentation, therefore, we need merely to reproduce herein the findings in the assailed decision of respondent appellate court, which are fully sustained by the records, excluding therefrom those cases pertaining to CA-G.R. SP No. 35928 (except when involved in the narration of the antecedents of this case) which was jointly resolved by it but from which no appeals or other recourse was taken by the petitioners therein.

We accordingly give credit to respondent court and adopt its recital of the antecedents of the instant petition, to

wit:

In CA-G.R. SP No. 35719, petitioner Marcos assails the Order dated June 9, 1994 which denied her Motion to Quash the eight (8) informations filed against her in the consolidated Criminal Case Nos. 91-101732 to 91-101739 and the other fourteen (14) informations filed against her, Benedicto and Rivera in the consolidated Criminal Case Nos. 91-101879 to 91-101892, and Order dated August 30, 1994 which denied her Motion for Reconsideration.

x x x

On October 21, 1983, pursuant to Monetary Board Resolution Nos. 1632 and 1718 dated September 30, 1983 and October 21, 1983, respectively, the Central Bank (CB) of the Philippines (now Bangko Sentral ng Pilipinas) issued Circular No. 960. The circular, which consolidated the various rules and regulations promulgated by the CB concerning foreign exchange non-trade transactions including those on gold and silver, prohibits in its Section 4 residents, firms, association, or corporations from maintaining foreign exchange accounts abroad without prior authorization from the CB or without being permitted by CB regulations; and requires in Section 10 thereof all residents who habitually earn or receive foreign exchange from invisibles locally or from abroad to submit reports of such earnings or receipts in prescribed form with the proper CB department and to register with the Foreign Exchange Department of the CB within 90 days from October 21, 1983. Violation of the provisions of the circular is punishable as a criminal offense under Section 34 of R.A. No.265, as amended (the Central Bank Act).

On December 20, 1991 or nearly six years after the 1986 EDSA Revolution which toppled the Marcos regime, Marcos was, for allegedly opening and maintaining foreign exchange accounts abroad on various dates from 1968 to 1991 without prior authorization from the CB or otherwise allowed by CB regulations, charged with violating Section 4 of CB Circular 960 before the RTC of Manila in eight (8) essentially identically worded informations docketed as Criminal Case Nos. 91-101732 to 101739, one of which reads as follows:

“That from 1968 to June 6, 1991, both dates inclusive, the above-named accused, in conspiracy with her late husband, then President Ferdinand E. Marcos, while both residing in Malacañang Palace in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court did, then and there wilfully, unlawfully and feloniously open and maintain foreign exchange accounts abroad, particularly in Swiss Bank Corporation (SBC) in Geneva, Switzerland, in the name of Maler Establishment, later transformed into Maler Foundation, which was organized by their dummies, nominees, fronts, agents or duly appointed administrators among them Jean Louis Sunier who received instructions from the accused and her husband who signed with their alias ‘JOHN LEWIS’ in order to maintain two accounts, one of which is Account No. 98929 NY under Maler II with a balance of SF 16,195,258.00, without prior permission from the Central Bank of the Philippines, and such act of maintaining foreign account abroad was not permitted under Central Bank regulations.”

(Rollo, CA-G.R. SP No.35719, pp. 45-46)

The wordings of the other seven (7) informations differed only in the dates of commission of the offense charged, the name/s of the dummy/dummies, the balance of the foreign exchange accounts maintained abroad and the name/s of the foreign bank/s where such accounts were maintained.

Likewise, for allegedly failing to submit a report of their foreign exchange earnings from abroad and/or to register with the Foreign Exchange Department of the CB within the period mandated by Section 10 of CB Circular No. 960, Marcos, Benedicto and Rivera were similarly indicted on December 27, 1991 for violation of Section 10, CB Circular No. 960 in relation to Section 34 of the Central Bank Act in five (5) informations filed with the RTC of Manila which were docketed as Criminal Case Nos. 91-101879 – 91-101883. On the same date, nine (9) more informations essentially charging the same offense were filed with the RTC of Manila, but this time only against Marcos and Benedicto, which were docketed as Criminal Case Nos. 91-101884 to

91-101892. One of the informations reads:

“That from September 21, 1983 up to December 26, 1985, both dates inclusive, and for sometime thereafter, all accused, conspiring and confederating with one another and with the late President Ferdinand E. Marcos, all residing and/or doing business in Manila, Philippines, within the jurisdiction of this Honorable Court, and assisted by their foreign agent or attorney-in-fact Stephen G. Cattai, did then and there wilfully, unlawfully and feloniously fail to submit reports in the prescribed form and/or register with the Foreign Exchange Department of the Central Bank within 90 days from October 21, 1983 as required of them being residents habitually/customarily earning, acquiring/receiving foreign exchange from whatever source or from invisibles locally or from abroad, despite the fact that they actually earned interests regularly for their investment of FIFTEEN MILLION (\$15-million) DOLLARS, U.S. Currency, in Philippine-issued dollar-denominated treasury notes with floating rates and in bearer form, in the name of Banque de Paris et des Pays-Bas (also known as Banque Paribas) in Geneva, Switzerland but which was transferred on May 17, 1984 to Lombard, Odier et Cie, a bank also in Geneva, for the account of COGES 00777 being managed by Mr. Stephane Cattai for the marcoses who also arranged the said investment of \$15-million through respondents Roberto S. Benedicto and Hector T. Rivera by using the Royal Traders Bank in Manila as the custodian of the said dollar-denominated treasury notes, which earned, acquired or received for the accused Imelda Romualdez Marcos and her late husband an interest of \$13,229.16 for delay (December 16-19, 1995) plus redemption of \$15-million which was remitted to Lombard, Odier et Cie through Chicago International Banking Corporation in New York, United States of America, for the credit of said Account COGES 00777 of the Marcoses for further investment outside the Philippines without first complying with the reporting/registering requirements of the Central Bank”.

(Rollo, CA-G.R. SP No. 35928, pp. 45-46)

On January 3, 1992, eleven (11) more informations for alleged violation of the aforesaid Section 10, CB Circular 960 were filed against Marcos and Benedicto with the same court which were docketed as Criminal Case Nos. 92-101959 to 92-101969.

x x x

All these thirty-three (33) cases were consolidated before Branch 26 of the RTC of Manila presided by herein public respondent Judge Loja, Sr.

Marcos was arraigned on February 12, 1992 while Benedicto and Rivera were arraigned on February 28, 1994.

During the pendency of these cases, CB Circular No. 1318 (Revised Manual of Rules and Regulations Governing Non-Trade Foreign Exchange Transactions) dated January 3, 1992 and CB Circular No. 1353 (Further Liberalizing Foreign Exchange Regulations) dated August 24, 1992 were issued by the CB. CB Circular No. 1318 repeals insofar as inconsistent therewith all existing provisions of CB Circular No. 960, among other circulars, while CB Circular No. 1353 repeals all the provisions of Chapter X of CB Circular No. 1318 only insofar as they are inconsistent therewith. Both circulars, however, contain a saving clause excepting from the circular pending criminal actions involving violations of CB Circular No. 960 and CB Circular No. 1318. (*Italics supplied*)

Invoking the abovementioned repeal as one of her grounds, Marcos filed a Motion to Quash on May 23, 1994 seeking the dismissal of the cases or the quashal of the informations filed against her in Criminal Case Nos. 91-101732 to 91-101739 and 91-101879 to 91-101892. Respondent People of the Philippines opposed the same on June 2, 1994. [3]

Petitioners Marcos' aforesaid motion was denied by the trial court in an order dated June 9, 1994 and her motion for reconsideration was likewise repudiated in an order of August 30, 1994. She then filed a petition for certiorari

and prohibition with respondent Court of Appeals ascribing abuse of discretion on the part of respondent trial judge. What transpired there is best taken from the account thereof in the following portion of the impugned decision of respondent appellate court.

In CA-G.R. SP No. 35719, Marcos relied on two grounds in taking respondent court to task, to wit: (1) respondent court has no jurisdiction over the offenses charged; and (2) respondent court acted with grave abuse of discretion amounting to lack of jurisdiction in denying her Motion to Quash.

Anent the first ground, Marcos argues that respondent court has no jurisdiction over the cases as the informations clearly allege that the acts complained of were committed outside Philippine territory, and that her constitutional right to equal protection of the laws was violated, the saving clause contained in CB Circular No. 1318 which repealed CB Circular No. 960 being patently discriminatory as it was purportedly designed to preserve the criminal cases lodged against her and her co-accused.

As to the second ground, Marcos argues that the facts alleged in the informations, even if true, do not constitute offenses and that in any event the offenses charged have “disappeared” due to repeal.

Marcos asseverates that the saving clause (Section 111, Chapter X) of CB Circular No. 1318 is invalid since the Monetary Board has no authority to except therefrom pending criminal prosecutions, the power being purely legislative and is not expressly granted in its charter; that even assuming *ad arguendo* that the Monetary Board has the power, the same is still invalid for being an encroachment and an invalid delegation thereof, the power to declare what constitutes a crime and how it should be punished being vested solely and exclusively in the legislature; that even further assuming that there is no invalid delegation of power to incorporate the saving clause, it is still invalid for being *ultra vires* as it is not germane to the object and purpose of the Central Bank Act which is to stabilize the monetary system; and in any event, even if the power is unquestioned, the clause is still invalid for being violative of the equal protection of (t)he law clause of the constitution, it having been designed solely for the purpose of preserving the criminal cases against her and her co-accused.

As regards the assertion that the facts alleged in the informations do not constitute an offense, Marcos contends that since the allegations unequivocally state that foreign foundations or trust, not the Marcoses, opened and maintained the subject Swiss accounts and earned and received the interest therefrom, she has no duty to report any earnings and if at all, she was a mere beneficiary of the foreign foundations or trusts; and that the acts having been committed abroad, they are beyond the jurisdiction of respondent court.

x x x

Petitioners do not dispute the validity of CB Circular No. 960, the law under which they are being prosecuted, and of CB Circular Nos. 1318 and 1353 which they allege repealed CB Circular No. 960, nor do they challenge the authority of the Monetary Board to issue them.

Petitioners likewise do not dispute that violation of Section 4 of CB Circular No. 960, as amended, which provides:

“SEC. 4. Foreign exchange retention abroad. No person shall promote, finance, enter into or participate in any foreign exchange transactions where the foreign exchange involved is paid, retained, delivered or transferred abroad while the corresponding pesos are paid for or are received in the Philippines, except when specifically authorized by the Central Bank or otherwise allowed under Central Bank regulations.

Residents, firms, associations, or corporations unless otherwise permitted under CB regulations are prohibited from maintaining foreign exchange accounts abroad.”

Or of section 10 thereof, the pertinent portions of which provide:

“SEC. 10. Reports of foreign exchange earners. All resident persons who habitually/customarily earn, acquire, or

receive foreign exchange from invisibles locally or from abroad, shall submit reports in the prescribed form of such earnings, acquisition or receipts with the appropriate CB department. Those required to submit reports under this section shall include, but need not necessarily be limited to the following:

xxx xxx xxx

Residents, firms or establishments habitually/customarily earning, acquiring or receiving foreign exchange from sales of merchandise, services or from whatever source shall register with the Foreign Exchange Department of the Central Bank within ninety (90) days from the date of this Circular.”

is punishable as a criminal offense under Section 34 of the Central Bank Act the pertinent portion of which provides:

“SEC. 34 Proceedings upon violation of laws and regulations. -- Whenever any person or entity wilfully violates this Act or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall be punished by a fine of not more than twenty thousand pesos and by imprisonment of not more than five years.”[4]

In respondent Court of Appeals, however, it was petitioner’s insistent position that violations of CB Circular No. 960, specifically Sections 4 and 10 thereof, ceased to be punishable upon the issuance in 1992 of CB Circular Nos. 1318 and 1353, on the theory that the latter circulars completely repealed the former, and that the reservations made in each of the repealing clauses of the latter circulars are invalid. She now reiterates the same contentions before us. Respondent appellate court rejected her thesis on this score; we are sufficiently persuaded to do likewise.

The saving clause in CB Circular No. 1318, which petitioner questions, provides:

SEC. 111. Repealing Clause. All existing provisions of Circulars 363, 960 and 1028, including amendments thereto, with the exception of the second paragraph of Section 68 of Circular 1028, as well as all other existing Central Bank rules and regulations or parts thereof, which are inconsistent with or contrary to the provisions of this Circular, are hereby repealed or modified accordingly: Provided, however, that regulations, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern (*Italics ours*).

The assailed saving clause in CB Circular No. 1353 is as follows:

SEC. 16. Final Provisions of CB Circular No. 1318. All the provisions in Chapter X of CB Circular No. 1318 insofar as they are not inconsistent with, or contrary to the provisions of this circular, shall remain in full force and effect: Provided, however, that any regulation on non-trade foreign exchange transactions which has been repealed, amended or modified by this Circular, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time of the cause of action accrued shall govern (*Italics also supplied*).

We agree with respondent appellate court that such amendments and saving clauses are valid and were authorized enactments under a delegated power of the Monetary Board. Section 14 of the Central Bank Act expressly grants the Monetary Board the power to “prepare and issue rules and regulations necessary for the effective discharge of the responsibilities and exercise of the powers assigned to the Monetary Board and to the Central Bank under this Act,” and to report the same thereafter to the President and Congress. In fact, this power of subordinate legislation and its validity was admitted by petitioner in the respondent appellate court.[5]

It cannot be plausibly claimed that there was undue delegation of legislative power in this particular instance since it was the Central Bank itself which defined the offense and provided the penalty therefor. As respondent Court of Appeals points out, administrative bodies have the authority to issue administrative regulations which are penal in nature where the law itself makes the violation of the administrative regulation punishable and provides for its penalty.[6] This is still the rule on the matter and, in the instant case, the Central Bank Act defined the offense and its penalty while the questioned circular merely spelled out the details of the offense. Ironically, petitioner concedes the greater power of the Board to repeal CB Circular No. 960 through CB Circular No. 1318, yet she inexplicably questions the lesser and incidental power to provide for saving clauses therein.

Petitioner's argument that the saving clauses are not germane to the purposes of the Central Bank Act, and consequently ultra vires, has been roundly confuted by respondent Court of Appeals. If, as she claims, one of the objectives of that law is to stabilize the monetary system, that is precisely why Congress punished as criminal offenses the violations of the issuance of the Monetary Board necessary for the effective discharged of its responsibilities, and to carry out which the Board deemed it necessary to provide for the challenged saving clauses. Obviously, these saving clauses were dictated by the need to continue the prosecution of those who had already committed acts of monetary destabilization. The opposite view posited by petitioner would result in an absurdity.

Her lamentations that the aforementioned provisions are discriminatory because they are aimed at her and her co-accused do not assume the dignity of a legal argument since they are unwarranted conjectures belied by even the text of the circulars alone. Hence, as respondent appellate court correctly concludes, the foregoing facts clearly disprove petitioner's claim that her constitutional right to equal protection of the law was violated. Should she nonetheless desire to pursue such objection, she may always adduce additional evidence at the trial of these cases since that is the proper stage therefor, and not at their present posture.

Lastly, there is no need for us to tarry on petitioner's hypothesis that the acts charged in the questioned informations were committed by foreign agents or juridical persons outside Philippine territory and that, she being supposedly a mere beneficiary, this scenario divests the trial court of jurisdiction over her insofar as the violations resulting from such acts abroad are concerned. This is too simplistic an argument because it would have the Court assume that she only had a passive participation thereon or, if she is to be believed, none at all.

That is why respondent Court of Appeals decided to just graciously quote, in refutation of such imposition on judicial credulity, the perceptively succinct observation of respondent trial judge, to wit:

x x x In no uncertain terms, the corresponding informations clearly state that the accused, in conspiracy with the late president x x x opened and maintained foreign accounts abroad in the name of foundations organized by their dummies. The same observation holds true in Criminal Cases Nos. 91-101879-92 where the accused and her co-accused are charged (with) violation of section 10, CB Circular 960. As easily gleaned therefrom, (the) criminal informations are not only sufficient but clear in alleging that the accused earned foreign exchange without proper reporting thereof although camouflaged in the name of foundations.

x x x

x x x accused's contention that the acts charged were committed by persons or agents who managed said foundation outside the country and therefore beyond the jurisdiction of this court is misplaced argument. As already stated and discussed, it is the accused who (was alleged to have) maintained foreign accounts and earned foreign exchange abroad camouflaged in the name of foreign agents and/or foundations but neither obtained authority to do so nor reported the earnings to the Central Bank.[7] (Words in parenthesis supplied).

All the way from the trial court, through the Court of Appeals, and now before this court, petitioner has insistently

repeated the selfsame issues and arguments for the quashal of the charges against her, with the result that the same have been deep-frozen since 1991. Inevitably, the three-tiered adjudicature to which they have been subjected has merely resulted in reiterations by the parties of their set issues, congealed arguments and invariable conclusions.

It is time then to thaw those cases from the frigidity of their present status so that petitioner may have the opportunity to prove her defenses on the merits, instead of having those cases indefinitely sidelined by legal strategy contingent on expectancies. For, in the present posture thereof, it does not appear that respondent Court of Appeals has committed any abuse of discretion, much less of a grave or arbitrary nature, as would call for the extraordinary writ of certiorari. We accordingly uphold the denial of petitioner's motion to quash so that the interlocutory proceedings may now move on to trial wherein she can present such evidence as may possibly place her protestations in another light as she claims.

WHEREFORE, the petition at bar is DENIED and the challenged judgment of respondent Court of Appeals is AFFIRMED, with costs against petitioner.

SO ORDERED.

Romero, Mendoza, and Torres, Jr., JJ., concur.

Puno, J., Please see separate opinion.

[1] Both per Carpio Morales, J., with the concurrence of De Pano, Jr. and Martin, Jr., JJ., together with CA-G.R. SP No. 35929, "Benedicto, et al. vs. Loja, Sr., etc., et al.," which was consolidated therewith; Rollo, 42-66, 67-68.

[2] Rollo, 230.

[3] Rollo, 43-48.

[4] Ibid., 49-54.

[5] Rollo, CA-G.R. SP No. 35719, 23.

[6] Citing U.S. vs. Barrias, 11 Phil. 327 (1908).

[7] Rollo, CA-G.R. SP No. 35719, 127-128.

SEPARATE OPINION

PUNO, J.:

I concur in the result. I reserve my opinion, however, on the various constitutional issues raised by the petitioner. Some of these issues require a factual foundation before they can be resolved with definiteness. Without the necessary evidence, the issues are merely hypothetical. The necessary evidence can only be presented in the trial during the trial on the merits. Off-hand, I believe that some of the constitutional issues raised by petitioner are serious enough to merit the attention by this Court at the proper stage of the case.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.