

RAMON J. QUISUMBING, PETITIONER, VS. SANDIGANBAYAN (FIFTH DIVISION), REPUBLIC OF THE PHILIPPINES AND PHILIPPINE JOURNALIST, INC., REPRESENTED BY THE PRESIDENTIAL COMMISSION ON GO...

G.R. No. 138437. November 14, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Via petition for certiorari, Ramon J. Quisumbing (petitioner) assails the Sandiganbayan Resolutions of November 13, 1998[1] and March 16, 1999[2] in Civil Case No. 0172.

The antecedent facts of the case are as follows:

By virtue of a Writ of Sequestration[3] dated April 22, 1986 it issued, the Presidential Commission on Good Government (PCGG) filed on July 13, 1987 a complaint before the Sandiganbayan, docketed as Civil Case No. 0035,[4] "Republic v. Benjamin `Kokoy' Romualdez," for recovery, conveyance and accounting of various properties and assets of Benjamin Romualdez, deposed President Ferdinand Marcos, former First lady Imelda Romualdez Marcos, and their alleged dummies and cohorts, on the ground that those constitute ill-gotten wealth. Among the properties subject of the complaint are those of the Philippine Journalist Inc. (PJI) including untitled parcels of land measuring around 7, 087 square meters situated in Mabini, Batangas (Mabini lots).

During the pendency of Civil Case No. 0035, the then PCGG-appointed members of the PJI Board of Directors, namely Jaime Cura, Johnny Araneta, Angel Sepidoza and Renato Paras, executed a Contract of Sale[5] dated June 5, 1991 and a Deed of Absolute Conveyance[6] dated June 25, 1991 covering the Mabini lots in favor of petitioner, acting as trustee of the Doy Development Corporation. The contracts, called management contracts, were deemed confirmed by PJI Board Resolution No. 91-30[7] dated July 1, 1991.

The Sandiganbayan, acting on the "Urgent Motion to Enjoin PCGG- Appointed Board of Directors from Effecting Sale of PJI Real Properties" filed by PJI stockholder Rosario Olivares, nullified the management contracts, by Resolution[8] of February 25, 1992, on the ground that they were entered into by the abovementioned PJI members of the Board without the Sandiganbayan's prior approval and consent of the PCGG.

Jaime Cura, then President of the PJI who was the signatory to the contracts, assailed via certiorari the Sandiganbayan February 22, 1992 Resolution before this Court in G.R. No. 106209. By Resolution[9] of October 5, 1993, this Court sustained the Sandiganbayan, it holding that PJI is a sequestered corporation and all its properties and assets are considered as under custodia legis.

PCGG and PJI thereupon filed before the Sandiganbayan a Complaint[10] against petitioner and the PCGG-appointed PJI members of the Board, docketed as Civil Case No. 0172, for reconveyance of the Mabini lots, the subject of the present petition.

To the complaint, petitioner filed a Motion to Dismiss on the ground of lack of cause of action on the part of the PCGG and the Republic. Petitioner contended that the Mabini lots were never sequestered nor placed in custodia legis, hence, the prior authorization of the Sandiganbayan and the consent of PCGG were not necessary; that the Sequestration Order dated April 22, 1996 covered only the shares of Benjamin Romualdez, his relatives, agents and nominees, and not the assets and properties of PJI which is a corporation having a separate and distinct personality from its stockholders; and that the said Order was issued without proper authority, having been signed by only one Commissioner, in violation of Sec. 3 of the PCGG Rules requiring at least two Commissioners to sign any order.

Petitioner maintained that the Republic has no cause of action as it is not a real party in interest, the Mabini lots being exclusively owned by PJI before they were sold and, therefore, the Republic's interest, at most, would only be that of a stockholder of the PJI.

In its Opposition,[11] the Republic maintained that PJI's assets were in custodia legis and their disposition required prior approval or confirmation from the Sandiganbayan and the PCGG, following this Court's Resolution sustaining that of the Sandiganbayan that PJI is a sequestered corporation.

Petitioner countered that the Resolutions of the Sandiganbayan and this Court did not bind him because he was not a party to the proceedings therein and that the Resolutions merely assumed, but did not actually find, that the Mabini lots were sequestered.

By Supplemental Motion to Dismiss[12] dated September 2, 1998, petitioner reiterated that the Sequestration Order is null and void in view of the lack of signature of a second Commissioner, citing the then recent decision of this Court in *Republic v. Sandiganbayan*.^[13]

The Republic submitted, however, a certified true copy of a Writ of Sequestration dated February 19, 1987 bearing the signatures of Commissioners Ramon A. Diaz and Raul Daza, and a certified true copy of the Sequestration Order dated April 22, 1986 signed by Commissioners Mary Concepcion Bautista and Ramon A. Diaz.

Petitioner assailed the authenticity of the certified copy of the Sequestration Order which he claimed to be a mere fabrication. And he questioned the Writ of Sequestration on the ground that it did not authorize the sequestration of the Mabini lots, but only the shares of stocks held in the PJI by Benjamin Romualdez and his relatives or assignees.

By Resolution of November 4, 1998, the Sandiganbayan denied petitioner's Motion to Dismiss for lack of merit. It held that assuming that there was "inconsistency" in the reproduction of the Sequestration Order which could affect its authenticity, the same had become immaterial owing to the "recently found Writ of Sequestration dated February 19, 1987" bearing the signatures of two Commissioners, which writ superseded the former to thus cure whatever defect it had.

On the issue of whether the Republic is a real party in interest, the Sandiganbayan held that since PJI is a corporation under sequestration by the PCGG representing the government or the Republic in its efforts to recover ill-gotten properties and assets pertaining to former President Marcos et al., it is the Republic which is the party which stands to be benefited or injured by the outcome of the case.

Petitioner's Motion for Reconsideration having been denied, the present petition was filed. This time, petitioner faults the Sandiganbayan solely for its finding that the Republic is a real party in interest.

In its Comment,[14] the Republic, through the Office of the Solicitor General, maintains that the assailed

Resolutions denying the motion to dismiss are interlocutory, hence, they cannot be the proper subject of a petition for certiorari.

On the merits, the Republic asserts that it is a real party in interest as it stands to be benefited or injured by the outcome of the case.

In a Supplement[15] dated October 22, 2002, petitioner alleges that this Court, in G.R. No. 108552, "Asset Privatization Trust v. Sandiganbayan (Second Division) and Rosario Olivarez,"[16] had already overturned its ruling in G.R. 106209 that PJI is a sequestered corporation. To petitioner, the Court's ruling in said case validates his position that PJI is not a sequestered corporation.

Still in another Manifestation dated January 13, 2005,[17] petitioner invokes the ruling of this Court in G.R. No. 138598, "Asset Privatization Trust v. Sandiganbayan (5[th] Division) and Rosario Olivarez,"[18] directing the Asset Privatization Trust (APT) to turn-over the management and control of PJI to its former stockholders upon payment of their outstanding obligations to PJI. And he pleads that this Court take judicial notice of an article[19] in the December 22, 2004 issue of the Philippine Daily Inquirer stating that PJI's former stockholders had already deposited a check for P33,364,889.19 with the Sandiganbayan on December 21, 2004 and that the formal turn-over of PJI by the APT to its former stockholders was implemented soon thereafter. Hence, petitioner avers that the Republic, through the APT, has lost all rights or interests it claims to have over the PJI.

Petitioner concludes that these recent developments confirm that the government's ownership and control over PJI was on account of PJI's former stockholders' assignment of the controlling shares of stock to APT as security for PJI's loan obligations to APT.

The Court notes that, indeed, the assailed Resolutions denying petitioner's motion to dismiss are interlocutory, hence, not the proper subject of a petition for certiorari.

An order denying a motion to dismiss is an interlocutory order which neither terminates nor finally disposes of a case, as it leaves something to be done by the court before the case is finally decided on the merits. As such, the general rule is that the denial of a motion to dismiss cannot be questioned in a special civil action for certiorari which is a remedy designed to correct errors of jurisdiction and not errors of judgment. Neither can the denial of a motion to dismiss be the subject of an appeal unless and until a final judgment or order is rendered. In order to justify the grant of the extraordinary remedy of certiorari, the denial of the motion to dismiss must have been tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.[20] (Emphasis supplied)

In order, however, to put the issue to rest given the length of time that the case has been pending, the Court resolves to set aside technicalities.

The petition is without merit.

Sec. 2 of Rule 3 of the Revised Rules of Court provides:

Sec. 2. Parties in interest. - A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

"Interest" within the meaning of the immediately-quoted Rule means material interest or an interest in issue to be affected by the decree, as distinguished from mere interest in the question involved or a mere incidental interest. Otherwise stated, the Rule refers to a real or present substantial interest as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest. As a general rule, one who has no right or interest to protect cannot invoke the jurisdiction of a court as a party-plaintiff in an action;[21] if he does, the suit is

dismissible on the ground of lack of cause of action.[22]

Prescinding from these precepts, the Court holds that, contrary to petitioner's assertion, the Republic is a real party in interest in Civil Case No. 0172. A cursory perusal of Executive Order (EO) No. 2, "Regarding [sic] the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez marcos, their Close Relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees," issued on March 12, 1986 by then President Aquino, shows that it is for and in behalf of the Republic and the Filipino people that the recovery of the so-called ill-gotten wealth is being undertaken. Thus, the pertinent portion of the EO reads:

x x x x

WHEREAS, the Government of the Philippines is in possession of evidence showing that there are assets and properties purportedly pertaining to former President Ferdinand E. Marcos, and/or his wife, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates, business associates, dummies, agents or nominees which had been or were acquired by them directly or indirectly, through or as a result of the improper or illegal use of funds or property owned by the Government of the Philippines or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of their office, authority, influence, connections or relationships, resulting in their unjust enrichment and causing grave damages and prejudice to the Filipino people and the Republic of the Philippines;

x x x x (Emphasis and underscoring supplied)

Evidently, the purpose of going after the assets and properties of the deposed President et al. is to protect the interests of the Filipino people and the Government, on the premise that those assets and properties were illegally acquired with the use of public funds or government resources or by taking advantage of their power. Hence, in filing the action for reconveyance, the Republic, through the PCGG, is protecting its interests in the Mabini lots owned by PJI which, as earlier determined by this Court, is a sequestered corporation. As this Court cautioned in *Meralco v. Sandiganbayan*,[23] the deterioration and disappearance of sequestered assets "cannot be allowed to happen, unless there is a final adjudication and disposition of the issue of whether they are ill-gotten or not, since they may result in damage or prejudice to the Republic."

Petitioner's reliance on the ruling in G.R. No. 108552 is misplaced. Contrary to petitioner's assertion, said case did not overturn the ruling in G.R. 106209. What was involved in G.R. No. 108552 was, inter alia, the assignment of the shares of PJI's former stockholders to the Development Bank of the Philippines (DBP) in settlement of a loan PJI contracted before its sequestration, hence, the pronouncement therein that only a minority of stockholders' shares were sequestered. To recall, Civil Case No. 0172 - subject of the present case is for reconveyance and recovery of possession only of the Mabini lots.

Petitioner's reliance on the ruling in G.R. No. 138598 is likewise misplaced. That case involved the computation of the former PJI stockholders' outstanding obligations to the APT to which DBP assigned the same. Petitioner's plea for the Court to take judicial notice of the news article on the supposed turn-over of PJI to its stockholders thus fails.

Finally, petitioner's arguments that the Republic's failure to pray for the reconveyance to it of the Mabini lots reflects its not being a real party in interest, and that since PJI is already represented by the PCGG, it is superfluous for the Republic to be a co-plaintiff fail. At most, like its misplaced reliance on rulings of this Court in G.R. Nos. 108552 and 138598, these are feeble attempts to invoke technicalities to further delay the proceedings in the case.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Azcuna,** Tinga, Velasco, Jr., and Brion, JJ., concur.

[*] Acting Chairperson in lieu of Justice Leonardo A. Quisumbing who took no part.

[**] Additional member per Raffle dated January 30, 2008 and pursuant to Administrative Circular No. 84-2007, in lieu of Justice Leonardo A. Quisumbing, who took no part.

[1] Annex "A" of the Petition, rollo, pp. 16-27; penned by then Associate Justice and Chairman of the Fifth Division, Hon. Minita V. Chico-Nazario (now an Associate Justice of this Court) and concurred in by Associate Justices Anacleto D. Badoy, Jr., and Godofredo L. Legaspi.

[2] Annex "B" of the Petition, rollo, pp. 28-31; penned by then Associate Justice Hon. Minita V. Chico-Nazario and concurred in by Associate Justices Anacleto D. Badoy, Jr., and Ma. Cristina Cortez-Estrada.

[3] Rollo, p. 41.

[4] Id. at 42-80.

[5] Id. at 137.

[6] Id. at 140.

[7] Vide Minutes of the Regular Meeting of the Board of Directors of Philippine Journalists, Inc., dated July 1, 1991, id. at 143-150.

[8] Id. at 151-160; penned by Associate Justice Romeo Escareal, Chairman of the Second Division and concurred in by Associate Justices Jose S. Balajadia and Nathanael M. Grospe.

[9] Id. at 161-173.

[10] Id. at 32-40.

[11] Annex "E" of the Petition, id. at 192-197.

[12] Id. at 188-191.

[13] 355 Phil. 181 (1998).

[14] Rollo, p. 245.

[15] Id. at 278-288.

[16] G.R. No. 108552, October 2, 2000, 341 SCRA 551.

[17] Rollo, pp. 346-353.

[18] G.R. No. 138598, June 29, 2001, 360 SCRA 437.

[19] Annex "B" of Supplement, rollo, p. 360.

[20] *Lu Ym v. Nabua*, G.R. No. 161309, February 23, 2005, 452 SCRA 298, 305-306, citing *Bernardo v. CA*, 388 Phil 793.

[21] *Abella, Jr. v. Civil Service Commission*, G.R. No. 152574, November 17, 2004, 442 SCRA 507.

[22] Pascual v. Court of Appeals, G.R. No. 115925, August 15, 2003, 409 SCRA 105.

[23] 232 SCRA 644 (1994).

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