

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. EDMUNDO L. TAN
& THE HONORABLE SANDIGANBAYAN (FIFTH DIVISION),
RESPONDENTS.**

G.R. No. 145255. March 30, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Via a petition for certiorari, the Republic of the Philippines (petitioner) seeks to annul the Resolution dated September 22, 1999[1] (promulgated on October 1, 1999) and another dated August 31, 2000[2] (promulgated on September 13, 2000) of the Sandiganbayan in SB No. 0145, “Republic of the Philippines v. Eduardo M. Cojuangco, et al.,” which granted private respondent Edmundo L. Tan’s motion for reconsideration and ordered his exclusion as party-defendant in said case, citing *Regala v. Sandiganbayan*. [3]

Petitioner filed on April 29, 1992 with the Sandiganbayan a complaint for annulment of contract and reconveyance, accounting, damages and forfeiture against several individuals including private respondent. The case was docketed as SB No. 0145. The allegations in the complaint pertinent to private respondent is hereinbelow quoted verbatim:

- Defendants named hereunder acted as subordinates, dummies, agents, and/or nominees of defendants Eduardo M. Cojuangco, Jr and the Heirs of Eduardo Cojuangco, Sr. and Ernesto Oppen, Jr. by allowing themselves to be named incorporators, stockholders, directors and/or corporate officers of defendant-corporations abovementioned.

Private defendants aboverreferred (sic) to may be served with summons and other court processes at the addresses stated hereunder:

Names:

Addresses:

a) ANTONIO C. CARAG c/o Southern Textile Mills, Inc.
16[th] Flr., Gammon Center
126 Alfonso Street
Salcedo Village, Makati
Metro Manila

b) ELEAZAR B. REYES Aero Park
Better Living Subdv.
Paranaque, M.M.

c) ARMANDO Q. ONGSIAKO

94 Segundo Street
Gatchalian Subdv
Sucat Rd., Paranaque
Metro Manila

d) FLAVIO P. GUTIERREZ 27 Gloria Street
B.F. Homes, Almanza
Las Pinas, M.M.

e) EDMUNDO L. TAN 65 A. Zobel Street
B.F. Homes, Paranaque
Metro Manila

f) EUSEBIO V. TAN 40 Fisher Avenue
Pasay City, M.M.[4]
(Emphasis and underscoring
supplied)

Motions to dismiss the complaint were filed by Gutierrez and Eusebio Tan, Cojuangco and Ongsiako on September 28, 1992,[5] October 7, 1992,[6] and December 5, 1992,[7] respectively, while Estrella, in his manifestation filed on October 14, 1992,[8] adopted the motion to dismiss of Cojuangco.

On October 19, 1992, private respondent filed a motion for bill of particulars[9] to which petitioner filed on December 1, 1992 a manifestation by way of opposition and comment.[10]

On July 21, 1998, private respondent filed a motion for exclusion as party-defendant,[11] maintaining that his participation in the acts charged was “in furtherance of legitimate lawyering in line with his work as an associate of ACCRA Law Firm at the time [said] acts charged were supposed to have been committed by his co-defendants,” and that this Court’s ruling in *Regala v. Sandiganbayan*, upon which the Sandiganbayan anchored its Resolution ordering his exclusion as party-defendant, is applicable in light of the similarity between the factual circumstances of his supposed involvement and those of the petitioners in *Regala*.

On August 19, 1998, petitioner filed a manifestation and motion[12] praying that the Sandiganbayan direct private respondent to furnish petitioner with documents supporting his claim that the acts of which he was charged were done pursuant to a legitimate exercise of his profession.

Private respondent failed to comment on petitioner’s manifestation and motion, prompting the Sandiganbayan to, by Resolution of November 18, 1998,[13] grant the motion and accordingly direct private respondent to furnish petitioner within ten days from receipt of said resolution any document to support his claim that the acts of which he was being charged were committed in the legitimate exercise of the legal profession.

Private respondent filed on December 2, 1998 a motion for reconsideration[14] of the Sandiganbayan November

18, 1998 Resolution, arguing that to compel him to produce the required documents would be contrary to the ruling in Regala. To the motion petitioner filed its opposition[15] on January 22, 1999.

On October 1, 1999, the Sandiganbayan, by Resolution of September 22, 1999, granted private respondent's motion for reconsideration, citing Regala in support thereof. Petitioner filed a motion for reconsideration[16] of the said resolution which the Sandiganbayan denied by Resolution of August 31, 2000 (promulgated on September 13, 2000),[17] hence, the present petition for certiorari under Rule 65, petitioner imputing grave abuse of discretion to the Sandiganbayan, viz:

THE HONORABLE SANDIGANBAYAN (FIFTH DIVISION) ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF (sic) EXCESS OF JURISDICTION IN RULING THAT "THE FACTUAL ANTECEDENTS IN THE PRESENT CASE ARE ON ALL FOURS WITH THOSE OF REGALA, ET AL. V. SANDIGANBAYAN AND HAYUDINI V. SANDIGANBAYAN" AND CONSEQUENTLY, IN RULING THAT PRIVATE RESPONDENT MAY NOT BE COMPELLED TO FURNISH PETITIONER "DOCUMENTS SHOWING THAT THE ACTS FOR WHICH HE WAS CHARGED ARE IN FURTHERANCE OF LEGITIMATE LAWYERING," AND THAT PRIVATE RESPONDENT IS EXCLUDED AS PARTY DEFENDANT IN CIVIL CASE NO. 0145.[18]

In the meantime, almost a decade after the complaint was filed, the Sandiganbayan, by Resolution of September 17, 2001,[19] granted the separate motions to dismiss filed by Cojuangco, Gutierrez and Eusebio Tan, and Ongsiako, as well as that of Conrado Estrella. Accordingly, the complaint was dismissed for lack of jurisdiction over the subject matter, the pertinent portions of which Resolution are hereinbelow quoted verbatim:

It is, thus, clear from the recitals of the Complaint itself that what we have here is a case for declaration of nullity, not one for recovery of ill-gotten wealth, a matter obviously within the jurisdiction of the Regional Trial Court (RTC), since it involves title to or possession of real properties. Section 19 of Batas Pambansa Bilang 129, as amended, provides, as follows:

"Section 9. Jurisdiction in Civil Cases – Regional Trial Courts shall exercise original jurisdiction: xxx

(2) In all civil actions which involve title to, or possession of, real property, or any interest therein, where the assessed value of the property exceeds Twenty Thousand Pesos (P20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty Thousand Pesos (P50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, Municipal Circuit Trial Courts;"

The case is not within the purview of Presidential Decree No. 1606 as amended by Republic Act No. 7975 and further amended by Republic Act No. 8249, which provides that this Court shall be jurisdiction over the following cases, to wit:

"Sec. 4 Jurisdiction – The Sandiganbayan shall have jurisdiction over:

(a)

Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 1379 and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

xxx xxx xxx

(b)

Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office

(c)

Civil and criminal cases filed pursuant to and in connection with Executive Orders Nos. 1, 2, 14 and 14-A issued in 1986.

Suffice it to state that with the above ruling, there is no further need to discuss the other grounds for the various Motions to Dismiss. Even assuming argumenti gratia that the other grounds are not meritorious, just the same, the Complaint still has to be dismissed for lack of jurisdiction on the part of this Court.

ACCORDINGLY, the various Motions to Dismiss are GRANTED and the Complaint is hereby ordered DISMISSED without prejudice.

Resolutions on the various bill of particulars filed by various defendants have become unnecessary too.[20] (Emphasis in the original)

Aggrieved by the Sandiganbayan's dismissal of its complaint, petitioner filed on October 9, 2001 a motion for reconsideration,[21] which the Sandiganbayan denied by Resolution of April 23, 2002.[22] Petitioner thereupon assailed the dismissal by petition for review with this Court, docketed as G.R. No. 153272, which was denied by Resolution of July 24, 2002 in this wise:

G.R. No. 153272 (Republic of the Philippines vs. Eduardo M. Cojuangco, Jr., et al.). – Considering the allegations, issues, and arguments adduced in the petition for review on certiorari of the resolutions of the Sandiganbayan dated September 17, 2001 and April 23, 2002, the Court Resolves to DENY the petition for failure of the petitioner to sufficiently show that the Sandiganbayan committed any reversible error in the challenged resolutions as to warrant the exercise by this Court of its discretionary appellate jurisdiction in this case...[23] (Emphasis and italics in the original)

Undaunted, petitioner filed a motion for reconsideration of this Court's July 24, 2002 Resolution and a motion to refer the case to the Court En Banc on August 23, 2002 and September 3, 2002, respectively. By Resolution of September 11, 2002,[24] this Court denied with finality petitioner's motion for reconsideration:

G.R. No. 153272 (Republic of the Philippines vs. Eduardo M. Cojuangco, Jr., et al.). – Acting on the motion of petitioner for reconsideration of the resolution of July 24, 2002 which denied the petition for review on certiorari and considering that there is no substantial argument to warrant a modification of this Court's resolution, the Court Resolves to DENY reconsideration with FINALITY.[25] (Emphasis and italics in the original)

As for petitioner's motion to refer the case to the Court En Banc, it was, by Resolution of October 2, 2002,[26] denied for lack of merit.

In a desperate attempt to salvage the case, petitioner filed a motion for leave to file and to admit a second motion for reconsideration which was attached thereto,[27] citing "extraordinary persuasive reasons" to justify the filing of such second motion. By Resolution of November 13, 2002,[28] this Court denied for lack of merit this motion "considering that a second motion for reconsideration is a prohibited pleading under Sec. 2, Rule 52 in relation to Sec. 4, Rule 56 of the 1997 Rules of Civil Procedure as amended."

This Court having denied petitioner's petition in G.R. No. 153272, the present petition has been rendered moot

and academic.

The case of *Garron v. Arca and Pineda*[29] is instructive. A petition for certiorari was filed with this Court, arising from a complaint for replevin. Before the petition could be acted upon, the complaint for replevin was dismissed. This Court held that a decision in the petition became unnecessary, the same having become moot.

We cannot quite agree with this plea much as we desire to rule on the merits of the case. The duty of the court is to decide actual controversies, not mere hypothetical cases. When this case was brought to this Court, there was actual controversy. Several issues were raised. The main purpose is to have the replevin case dismissed for lack of jurisdiction. This purpose however has already been accomplished, although on a different ground. If the petitioners wanted to have the case decided on the merits so that a ruling may be had on the issue of jurisdiction or on the matter affecting ownership of the articles involved, they should have appealed from the order of the dismissal in the replevin case. This they failed to do. The replevin case has ceased to have legal existence. And as this case of certiorari is but an outgrowth of the main case, it must fall on its own weight. The order of dismissal is now final in character and cannot be revived. There is, therefore, no point to continue with this case when the main case is nonexistent. This Court finds no other alternative than to dismiss it without prejudice on the part of the petitioners to take such action as may be proper relative to the articles seized from Domingo Pineda.[30] (Emphasis and underscoring supplied)

The rule is well-settled that for a court to exercise its power of adjudication, there must be an actual case or controversy — one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice.[31] Where the issue has become moot and academic, there is no justiciable controversy, and an adjudication thereon would be of no practical use or value[32] as courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging.[33]

That private respondent did not file a motion to dismiss the complaint for lack of jurisdiction of the Sandiganbayan over the subject matter, he having instead filed a motion for exclusion as party defendant, is of no moment. Jurisdiction of courts over the subject matter is conferred exclusively by the Constitution and by law.[34] It is determined by the allegations of the complaint and cannot be made to depend on the defenses of private respondent.[35] The Sandiganbayan's lack of jurisdiction over the complaint could not be waived by private respondent or cured by his silence, acquiescence or even express consent.[36]

In fine, the dismissal of the complaint by the Sandiganbayan for lack of jurisdiction over the subject matter which this Court affirmed with finality in G.R. No. 153272 has rendered the present petition moot and academic.

WHEREFORE, the instant petition is hereby DISMISSED.

SO ORDERED.

Sandoval-Gutierrez, (Acting Chairman), and Corona, JJ., concur.
Vitug, (Chairman), J., on official leave.

[1] Rollo at 22-28.

[2] Id. at 29-30.

[3] 262 SCRA 123 (1996).

- [4] Records Vol. I at 7-8.
- [5] Records Vol. II at 449-464.
- [6] Id. at 472-612.
- [7] Records Vol. III at 759-777.
- [8] Records Vol. II at 622-623.
- [9] Records Vol. III at 628-644.
- [10] Id. at 754-756.
- [11] Id. at 822- 829.
- [12] Id. at 841- 843.
- [13] Id. at 867.
- [14] Id. at 877-883.
- [15] Id. at 897-903.
- [16] Id. at 945-949.
- [17] Id. at 1020-1021.
- [18] Rollo at 10-11.
- [19] Records Vol. IV at 27-30.
- [20] Id. at 29-30.
- [21] Id. at 43-54.
- [22] Id. at 160.
- [23] Id. at 224.
- [24] Id. at 166-167.
- [25] Id. at 166.
- [26] Id. at 211-212.
- [27] Id. at 168-205.
- [28] Id. at 219-220.
- [29] 88 Phil. 490 (1951).
- [30] Id. at 492-493.
- [31] Joya v. PCGG, 225 SCRA 568, 579 (1993).
- [32] Jaafar v. COMELEC, 304 SCRA 672, 678 (1999).
- [33] Guingona, Jr. v. Court of Appeals, 292 SCRA 402, 413 (1998).

[34] Oca v. Court of Appeals, 378 SCRA 642, 647 (2002); Alemar's (Sibal & Sons), Inc. v. Court of Appeals, 350 SCRA 333, 339 (2001).

[35] Atuel v. Valdez, G.R. No. 139561, June 10, 2003; Roxas v. Court of Appeals, 391 SCRA 351, 361 (2002); Cerofer Realty Corporation v. Court of Appeals, 376 SCRA 144, 150 (2002).

[36] Bongato v. Malvar, 387 SCRA 327, 340-341 (2002); Duero v. Court of Appeals, 373 SCRA 11, 19 (2002).

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