

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG),
PETITIONER, VS. SANDIGANBAYAN (SECOND DIVISION) AND
FERDINAND R. MARCOS, JR. (...)**

G.R. No. 148154. December 17, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

The propriety of filing and granting of a motion for a bill of particulars filed for the estate of a defaulting and deceased defendant is the main issue in this saga of the protracted legal battle between the Philippine government and the Marcoses on alleged ill-gotten wealth.

This special civil action for certiorari[1] assails two resolutions of the Sandiganbayan ("anti-graft court" or "court") issued during the preliminary legal skirmishes in this 20-year case:[2] (1) the January 31, 2000 Resolution[3] which granted the motion for a bill of particulars filed by executor Ferdinand R. Marcos, Jr. (respondent) on behalf of his father's estate and (2) the March 27, 2001 Resolution[4] which denied the government's motion for reconsideration.

From the records, the antecedent and pertinent facts in this case are as follows:

The administration of then President Corazon C. Aquino successively sued former President Ferdinand E. Marcos and former First Lady Imelda Romualdez-Marcos (Mrs. Marcos), and their alleged cronies or dummies before the anti-graft court to recover the alleged ill-gotten wealth that they amassed during the former president's 20-year rule. Roman A. Cruz, Jr. (Cruz), then president and general manager of the Government Service Insurance System (GSIS); president of the Philippine Airlines (PAL); chairman and president of the Hotel Enterprises of the Philippines, Inc., owner of Hyatt Regency Manila; chairman and president of Manila Hotel Corporation; and chairman of the Commercial Bank of Manila (CBM), is the alleged crony in this case.

On July 21, 1987, the Presidential Commission on Good Government (PCGG), through the Office of the Solicitor General, filed a Complaint[5] for reconveyance, reversion, accounting, restitution and damages alleging that Cruz and the Marcoses stole public assets and invested them in several institutions here and abroad. Specifically, Cruz allegedly purchased, in connivance with the Marcoses, assets whose values are disproportionate to their legal income, to wit: two residential lots and two condominiums in Baguio City; a residential building in Makati; a parcel of land and six condominium units in California, USA; and a residential land in Metro Manila. The PCGG also prayed for the payment of moral damages of P50 billion and exemplary damages of P1 billion.

On September 18, 1987, Cruz filed an Omnibus Motion to Dismiss, strike out averments in the complaint, and for a bill of particulars.[6]

On April 18, 1988, the court ordered that alias summonses be served on the Marcoses who were then in exile in Hawaii.[7] The court likewise admitted the PCGG's Expanded Complaint[8] dated April 25, 1988, then denied

Cruz's omnibus motion on July 28, 1988 after finding that the expanded complaint sufficiently states causes of action and that the matters alleged are specific enough to allow Cruz to prepare a responsive pleading and for trial.[9] On September 15, 1988, Cruz filed his answer ad cautelam.[10]

On November 10, 1988, the alias summonses on the Marcoses were served at 2338 Makiki Heights, Honolulu, Hawaii.[11] The Marcoses, however, failed to file an answer and were accordingly declared in default by the anti-graft court on April 6, 1989.[12] In *Imelda R. Marcos, et al. v. Garchitorena, et al.*,[13] this Court upheld the validity of the Marcoses' default status for failure to file an answer within 60 days from November 10, 1988 when the alias summonses were validly served in their house address in Hawaii.

On September 29, 1989, former President Marcos died in Hawaii. He was substituted by his estate, represented by Mrs. Marcos and their three children, upon the motion of the PCGG.[14]

On July 13, 1992, Mrs. Marcos filed a Motion to Set Aside Order of Default,[15] which was granted by the anti-graft court on October 28, 1992.[16] In *Republic v. Sandiganbayan*,[17] this Court affirmed the resolution of the anti-graft court, ruling that Mrs. Marcos had a meritorious defense, and that failure of a party to properly respond to various complaints brought about by the occurrence of circumstances which ordinary prudence could not have guarded against, such as being barred from returning to the Philippines, numerous civil and criminal suits in the United States, deteriorating health of her husband, and the complexities of her legal battles, is considered as due to fraud, accident and excusable negligence.[18]

On September 6, 1995, Mrs. Marcos filed her answer,[19] arguing that the former President Marcos' wealth is not ill-gotten and that the civil complaints and proceedings are void for denying them due process. She also questioned the legality of the PCGG's acts and asked for P20 billion moral and exemplary damages and P10 million attorney's fees.

On January 11, 1999, after pre-trial briefs had been filed by Cruz, the PCGG, and Mrs. Marcos, the court directed former President Marcos' children to appear before it or it will proceed with pre-trial and subsequent proceedings.[20]

On March 16, 1999, respondent filed a Motion for Leave to File a Responsive Pleading as executor of his late father's estate.[21] The PCGG opposed the motion, citing as ground the absence of a motion to set aside the default order or any order lifting the default status of former President Marcos.[22]

On May 28, 1999, the court granted respondent's motion:

x x x x

The Court concedes the plausibility of the stance taken by the Solicitor General that the default Order binds the estate and the executor for they merely derived their right, if any, from the decedent. Considering however the complexities of this case, and so that the case as against the other defendants can proceed smoothly as the stage reached to date is only a continuation of the pre-trial proceedings, the Court, in the interest of justice and conformably with the discretion granted to it under Section 3 of Rule 9 of the Rules of Court hereby accords affirmative relief to the prayer sought in the motion.

Accordingly, Ferdinand R. Marcos, Jr.,[.] as executor of the [estate of] deceased defendant Ferdinand E. Marcos,[.] is granted a period of ten (10) days from receipt of this Resolution within which to submit his Responsive Pleading.

x x x x[23]

Respondent asked for three extensions totaling 35 days to file an answer. The court granted the motions and gave

him until July 17, 1999 to file an answer. But instead of filing an answer, respondent filed on July 16, 1999, a Motion For Bill of Particulars,[24] praying for clearer statements of the allegations which he called "mere conclusions of law, too vague and general to enable defendants to intelligently answer."

The PCGG opposed the motion, arguing that the requested particulars were evidentiary matters; that the motion was dilatory; and that it contravened the May 28, 1999 Resolution granting respondent's Motion for Leave to File a Responsive Pleading.[25]

The anti-graft court, however, upheld respondent, explaining that the allegations against former President Marcos were vague, general, and were mere conclusions of law. It pointed out that the accusations did not specify the ultimate facts of former President Marcos' participation in Cruz's alleged accumulation of ill-gotten wealth, effectively preventing respondent from intelligently preparing an answer. It noted that this was not the first time the same issue was raised before it, and stressed that this Court had consistently ruled in favor of the motions for bills of particulars of the defendants in the other ill-gotten wealth cases involving the Marcoses.

The fallo of the assailed January 31, 2000 Resolution reads:

WHEREFORE, the defendant-movant's motion for bill of particulars is hereby GRANTED.

Accordingly, the plaintiff is hereby ordered to amend pars. 9 and Annex "A", 12 (a) to (e), and 19 in relation to par-3 of the PRAYER, of the Expanded Complaint, to allege the ultimate facts indicating the nature, manner, period and extent of participation of Ferdinand E. Marcos in the acts referred to therein, and the amount of damages to be proven during trial, respectively, within fifteen (15) days from receipt of this resolution[.]

SO ORDERED.[26]

Not convinced by petitioner's Motion for Reconsideration,[27] the court ruled in the assailed March 27, 2001 Resolution that the motion for a bill of particulars was not dilatory considering that the case was only at its pre-trial stage and that Section 1,[28] Rule 12 of the 1997 Rules of Civil Procedure allows its filing.

In urging us to nullify now the subject resolutions, petitioner, through the PCGG, relies on two grounds:

I.

The motion for bill of particulars contravenes section 3, rule 9 of the 1997 rules [OF] civil procedure.

II.

The motion for bill of particulars is patently dilatory and bereft of any basis.[29]

Invoking Section 3,[30] Rule 9 of the 1997 Rules of Civil Procedure, petitioner argues that since the default order against former President Marcos has not been lifted by any court order, respondent cannot file a motion for a bill of particulars. Petitioner stresses that respondent did not file a motion to lift the default order as executor of his father's estate; thus, he and the estate cannot take part in the trial.

Petitioner also contends that respondent was granted leave to file an answer to the expanded complaint, not a motion for a bill of particulars. The anti-graft court should not have accepted the motion for a bill of particulars after he had filed a motion for leave to file responsive pleading and three successive motions for extension as the motion for a bill of particulars is dilatory. Petitioner insists that respondent impliedly admitted that the complaint sufficiently averred factual matters with definiteness to enable him to properly prepare a responsive pleading because he was able to prepare a draft answer, as stated in his second and third motions for extension. Petitioner adds that the factual matters in the expanded complaint are clear and sufficient as Mrs. Marcos and Cruz had already filed their respective answers.

Petitioner also argues that if the assailed Resolutions are enforced, the People will suffer irreparable damage because petitioner will be forced to prematurely divulge evidentiary matters, which is not a function of a bill of particulars. Petitioner maintains that paragraph 12, subparagraphs a to e,[31] of the expanded complaint "illustrate the essential acts pertaining to the conspirational acts" between Cruz and former President Marcos. Petitioner argues that respondent erroneously took out of context the phrase "unlawful concert" from the rest of the averments in the complaint.

Respondent, for his part, counters that this Court had compelled petitioner in several ill-gotten wealth cases involving the same issues and parties to comply with the motions for bills of particulars filed by other defendants on the ground that most, if not all, of the allegations in the similarly worded complaints for the recovery of alleged ill-gotten wealth consisted of mere conclusions of law and were too vague and general to enable the defendants to intelligently parry them.

Respondent adds that it is misleading for the Government to argue that the default order against his father stands because the May 28, 1999 Resolution effectively lifted it; otherwise, he would not have been called by the court to appear before it and allowed to file a responsive pleading. He stresses that the May 28, 1999 Resolution remains effective for all intents and purposes because petitioner did not file a motion for reconsideration.

Respondent likewise denies that his motion for a bill of particulars is dilatory as it is petitioner's continued refusal to submit a bill of particulars which causes the delay and it is petitioner who is "hedging, flip-flopping and delaying in its prosecution" of Civil Case No. 0006. His draft answer turned out "not an intelligent" one due to the vagueness of the allegations. He claims that petitioner's actions only mean one thing: it has no specific information or evidence to show his father's participation in the acts of which petitioner complains.

In its Reply,[32] petitioner adds that the acts imputed to former President Marcos were acts that Cruz committed in conspiracy with the late dictator, and which Cruz could not have done without the participation of the latter. Petitioner further argues that conspiracies need not be established by direct evidence of the acts charged but by a number of indefinite acts, conditions and circumstances.

In a nutshell, the ultimate issue is: Did the court commit grave abuse of discretion amounting to lack or excess of jurisdiction in granting respondent's motion for a bill of particulars as executor of former President Marcos' estates considering that the deceased defendant was then a defaulting defendant when the motion was filed?

We rule in the negative, and dismiss the instant petition for utter lack of merit.

Under the Rules of Court, a defending party may be declared in default, upon motion and notice, for failure to file an answer within the allowable period. As a result, the defaulting party cannot take part in the trial albeit he is entitled to notice of subsequent proceedings.[33]

The remedies against a default order are: (1) a motion to set aside the order of default at any time after discovery thereof and before judgment on the ground that the defendant's failure to file an answer was due to fraud, accident, mistake or excusable neglect and that the defendant has a meritorious defense; (2) a motion for new trial within 15 days from receipt of judgment by default, if judgment had already been rendered before the defendant discovered the default, but before said judgment has become final and executory; (3) an appeal within 15 days from receipt of judgment by default; (4) a petition for relief from judgment within 60 days from notice of judgment and within 6 months from entry thereof; and (5) a petition for certiorari in exceptional circumstances.[34]

In this case, former President Marcos was declared in default for failure to file an answer. He died in Hawaii as an exile while this case was pending, since he and his family fled to Hawaii in February 1986 during a people-power

revolt in Metro Manila. His representatives failed to file a motion to lift the order of default. Nevertheless, respondent, as executor of his father's estate, filed a motion for leave to file a responsive pleading, three motions for extensions to file an answer, and a motion for bill of particulars all of which were granted by the anti-graft court.

Given the existence of the default order then, what is the legal effect of the granting of the motions to file a responsive pleading and bill of particulars? In our view, the effect is that the default order against the former president is deemed lifted.

Considering that a motion for extension of time to plead is not a litigated motion but an ex parte one, the granting of which is a matter addressed to the sound discretion of the court; that in some cases we have allowed defendants to file their answers even after the time fixed for their presentation; that we have set aside orders of default where defendants' failure to answer on time was excusable; that the pendency of the motion for a bill of particulars interrupts the period to file a responsive pleading; and considering that no real injury would result to the interests of petitioner with the granting of the motion for a bill of particulars, the three motions for extensions of time to file an answer, and the motion with leave to file a responsive pleading, the anti-graft court has validly clothed respondent with the authority to represent his deceased father. The only objection to the action of said court would be on a technicality. But on such flimsy foundation, it would be erroneous to sacrifice the substantial rights of a litigant. Rules of procedure should be liberally construed to promote their objective in assisting the parties obtain a just, speedy and inexpensive determination of their case.[35]

While it is true that there was no positive act on the part of the court to lift the default order because there was no motion nor order to that effect, the anti-graft court's act of granting respondent the opportunity to file a responsive pleading meant the lifting of the default order on terms the court deemed proper in the interest of justice. It was the operative act lifting the default order and thereby reinstating the position of the original defendant whom respondent is representing, founded on the court's discretionary power to set aside orders of default.

It is noteworthy that a motion to lift a default order requires no hearing; it need be under oath only and accompanied by an affidavit of merits showing a meritorious defense.[36] And it can be filed "at any time after notice thereof and before judgment." Thus, the act of the court in entertaining the motions to file a responsive pleading during the pre-trial stage of the proceedings effectively meant that respondent has acquired a locus standi in this case. That he filed a motion for a bill of particulars instead of an answer does not pose an issue because he, as party defendant representing the estate, is allowed to do so under the Rules of Court to be able to file an intelligent answer. It follows that petitioner's filing of a bill of particulars in this case is merely a condition precedent to the filing of an answer.

Indeed, failure to file a motion to lift a default order is not procedurally fatal as a defaulted party can even avail of other remedies mentioned above.

As default judgments are frowned upon, we have been advising the courts below to be liberal in setting aside default orders to give both parties every chance to present their case fairly without resort to technicality.[37] Judicial experience shows, however, that resort to motions for bills of particulars is sometimes intended for delay or, even if not so intended, actually result in delay since the reglementary period for filing a responsive pleading is suspended and the subsequent proceedings are likewise set back in the meantime. As understood under Section 1 of Rule 12, mentioned above, a motion for a bill of particulars must be filed within the reglementary period for the filing of a responsive pleading to the pleading sought to be clarified. This contemplates pleadings which are required by the Rules to be answered under pain of procedural sanctions, such as default or implied admission of the facts not responded to.[38]

But as defaulted defendants are not actually thrown out of court because the Rules see to it that judgments against them must be in accordance with the law and competent evidence, this Court prefers that the lifting of default orders be effected before trial courts could receive plaintiffs' evidence and render judgments. This is so since judgments by default may result in considerable injustice to defendants, necessitating careful and liberal examination of the grounds in motions seeking to set them aside. The inconvenience and complications associated with rectifying resultant errors, if defendant justifies his omission to seasonably answer, far outweigh the gain in time and dispatch of immediately trying the case.[39] The fact that former President Marcos was in exile when he was declared in default, and that he later died still in exile, makes the belated filing of his answer in this case understandably excusable.

The anti-graft court required the Marcos siblings through its January 11, 1999 Order[40] to substitute for their father without informing them that the latter was already declared in default. They were unaware, therefore, that they had to immediately tackle the matter of default. Respondent, who stands as the executor of their father's estate, could assume that everything was in order as far as his standing in court was concerned. That his motion for leave to file a responsive pleading was granted by the court gave him credible reason not to doubt the validity of his legal participation in this case. Coupled with his intent to file an answer, once his motion for a bill of particulars is sufficiently answered by petitioner, the circumstances abovementioned warrant the affirmation of the anti-graft court's actions now being assailed.

As to the propriety of the granting of the motion for a bill of particulars, we find for respondent as the allegations against former President Marcos appear obviously couched in general terms. They do not cite the ultimate facts to show how the Marcoses acted "in unlawful concert" with Cruz in illegally amassing assets, property and funds in amounts disproportionate to Cruz's lawful income, except that the former President Marcos was the president at the time.

The pertinent allegations in the expanded complaint subject of the motion for a bill of particulars read as follows:

- Defendant Roman A. Cruz, Jr. served as public officer during the Marcos administration. During his . . . incumbency as public officer, he acquired assets, funds and other property grossly and manifestly disproportionate to his salaries, lawful income and income from legitimately acquired property.

- . . . Cruz, Jr., in blatant abuse of his position as Chairman and General Manager of the Government Service Insurance System (GSIS), as President and Chairman of the Board of Directors of the Philippine Airlines (PAL), and as Executive Officer of the Commercial Bank of Manila, by himself and/or in unlawful concert with defendants Ferdinand E. Marcos and Imelda R. Marcos, among others:

- (a) purchased through Arconal N.V., a Netherland-Antilles Corporation, a lot and building located at 212 Stockton St., San Francisco, California, for an amount much more than the value of the property at the time of the sale to the gross and manifest disadvantageous (sic) to plaintiff.

GSIS funds in the amount of \$10,653,350.00 were used for the purchase when under the right of first refusal by PAL contained in the lease agreement with Kevin Hsu and his wife, the owners of the building, a much lower amount should have been paid.

For the purchase of the building, defendant Cruz allowed the intervention of Sylvia Lichauco as broker despite the fact that the services of such broker were not necessary and even contrary to existing policies of PAL to deal directly with the seller. The broker was paid the amount of \$300,000.00 resulting to the prejudice of GSIS and PAL.

- (b) Converted and appropriated to . . . own use and benefit funds of the Commercial Bank of Manila, of which he was Executive Officer at the time.

He caused the disbursement from the funds of the bank of among others, the amount of P81,152.00 for personal services rendered to him by one Brenda Tuazon.

(c) Entered into an agency agreement on behalf of the Government Service Insurance System with the Integral Factors Corporation (IFC), to solicit insurance, and effect reinsurance on behalf of the GSIS, pursuant to which agreement, IFC effected a great part of its reinsurance with INRE Corporation, which, was a non-insurance company registered in London[,] with defendant . . . Cruz, Jr., as one of its directors.

IFC was allowed to service accounts emanating from government agencies like the Bureau of Buildings, Philippine National Oil Corporation, National Power Corporation, Ministry of Public Works and Highways which under the laws are required to insure with and deal directly with the GSIS for their insurance needs. The intervention of IFC to service these accounts caused the reduction of premium paid to GSIS as a portion thereof was paid to IFC.

(d) Entered into an agreement with the Asiatic Integrated Corporation (AIC) whereby the GSIS ceded, transferred, and conveyed property consisting of five (5) adjoining parcels of land situated in Manila covered by Transfer Certificates of Title (TCT) Nos. 49853, 49854, 49855 and 49856 to AIC in exchange for AIC property known as the Pinugay Estate located at Tanay, Rizal, covered by TCT No. 271378, under terms and conditions grossly and manifestly disadvantageous to the government.

The appraised value of the GSIS parcels of land was P14,585,600.00 as of June 25, 1971 while the value of the Pinugay Estate was P2.00 per square meter or a total amount of P15,219,264.00. But in the barter agreement, the Pinugay Estate was valued at P5.50 per square meter or a total of P41,852,976.00, thus GSIS had to pay AIC P27,287,976.00, when it was GSIS which was entitled to payment from AIC for its failure to pay the rentals of the GSIS property then occupied by it.

(e) purchased three (4) (sic) additional Airbus 300 in an amount much more than the market price at the time when PAL was in deep financial strain, to the gross and manifest disadvantage of Plaintiff.

On October 29, 1979, defendant Cruz, as President and Chairman of the Board of Directors of . . . (PAL) authorized the payment of non-refundable deposit of U.S. \$200,000.00 even before a meeting of the Board of Directors of PAL could deliberate and approve the purchase.[41]

In his motion for a bill of particulars, respondent wanted clarification on the specific nature, manner and extent of participation of his father in the acquisition of the assets cited above under Cruz; particularly whether former President Marcos was a beneficial owner of these properties; and the specific manner in which he acquired such beneficial control.

Also, respondent wanted to know the specific nature, manner, time and extent of support, participation and collaboration of his father in (1) Cruz's alleged "blatant abuse" as GSIS president and general manager, PAL president and chairman of the board, and executive officer of the CBM; (2) the purchase of a lot and building in California using GSIS funds and Cruz's allowing Lichauco as broker in the sale of the lot and building contrary to PAL policies; (3) Cruz's appropriating to himself CBM funds; (4) Cruz's disbursement of P81,152 CBM funds for personal services rendered to him by Tuazon; (5) Cruz's entering into an agency agreement for GSIS with IFC to solicit, insure, and effect reinsurance of GSIS, as result of which IFC effected a great part of its reinsurance with INRE Corporation, a London-registered non-insurance company, of which Cruz was one of the directors; (6) Cruz's allowing IFC to service the accounts emanating from government agencies which were required under the law to insure and deal directly with the GSIS for their insurance needs; (7) the GSIS-AIC agreement wherein GSIS ceded and conveyed to AIC five parcels of land in Manila in exchange for AIC's Pinugay Estate in Tanay, Rizal; (8) PAL's purchase of three Airbus 300 jets for a higher price than the market price; and (9) if former President Marcos was connected in any way to IFC and INRE Corporation. Respondent likewise asked, what is

the specific amount of damages demanded?

The 1991 Virata-Mapa Doctrine[42] prescribes a motion for a bill of particulars, not a motion to dismiss, as the remedy for perceived ambiguity or vagueness of a complaint for the recovery of ill-gotten wealth,[43] which was similarly worded as the complaint in this case. That doctrine provided protective precedent in favor of respondent when he filed his motion for a bill of particulars.

While the allegations as to the alleged specific acts of Cruz were clear, they were vague and unclear as to the acts of the Marcos couple who were allegedly "in unlawful concert with" the former. There was no factual allegation in the original and expanded complaints on the collaboration of or on the kind of support extended by former President Marcos to Cruz in the commission of the alleged unlawful acts constituting the alleged plunder. All the allegations against the Marcoses, aside from being maladroitly laid, were couched in general terms. The alleged acts, conditions and circumstances that could show the conspiracy among the defendants were not particularized and sufficiently set forth by petitioner.

That the late president's co-defendants were able to file their respective answers to the complaint does not necessarily mean that his estate's executor will be able to file an equally intelligent answer, since the answering defendants' defense might be personal to them.

In dismissing this petition, *Tantuico, Jr. v. Republic*[44] also provides us a cogent jurisprudential guide. There, the allegations against former President Marcos were also conclusions of law unsupported by factual premises. The particulars prayed for in the motion for a bill of particulars were also not evidentiary in nature. In that case, we ruled that the anti-graft court acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying an alleged crony's motion for a bill of particulars on a complaint with similar tenor and wordings as in the case at bar.

Likewise we have ruled in *Virata v. Sandiganbayan*[45](1993) that *Tantuico's* applicability to that case was "ineluctable," and the propriety of the motion for a bill of particulars under Section 1, Rule 12 of the Revised Rules of Court was beyond dispute.[46]

In 1996, in the similar case of *Republic v. Sandiganbayan (Second Division)*,[47] we also affirmed the resolutions of the Sandiganbayan granting the motion for a bill of particulars of Marcos' alleged crony, business tycoon Lucio Tan.[48]

Phrases like "in flagrant breach of public trust and of their fiduciary obligations as public officers with grave and scandalous abuse of right and power and in brazen violation of the Constitution and laws," "unjust enrichment," "embarked upon a systematic plan to accumulate ill-gotten wealth," "arrogated unto himself all powers of government," are easy and easy to read; they have potential media quotability and they evoke passion with literary flair, not to mention that it was populist to flaunt those statements in the late 1980s. But they are just that, accusations by generalization. Motherhood statements they are, although now they might be a politically incorrect expression and an affront to mothers everywhere, although they best describe the accusations against the Marcoses in the case at bar.

In Justice Laurel's words, "the administration of justice is not a matter of guesswork." [49] The name of the game is fair play, not foul play. We cannot allow a legal skirmish where, from the start, one of the protagonists enters the arena with one arm tied to his back.[50] We must stress anew that the administration of justice entails a painstaking, not haphazard, preparation of pleadings.

The facile verbosity with which the legal counsel for the government flaunted the accusation of excesses against the Marcoses in general terms must be soonest refurbished by a bill of particulars, so that respondent can properly

prepare an intelligent responsive pleading and so that trial in this case will proceed as expeditiously as possible. To avoid a situation where its pleadings may be found defective, thereby amounting to a failure to state a cause of action, petitioner for its part must be given the opportunity to file a bill of particulars. Thus, we are hereby allowing it to supplement its pleadings now, considering that amendments to pleadings are favored and liberally allowed especially before trial.

Lastly, the allowance of the motion for a more definite statement rests with the sound discretion of the court. As usual in matters of a discretionary nature, the ruling of the trial court will not be reversed unless there has been a palpable abuse of discretion or a clearly erroneous order.[51] This Court has been liberal in giving the lower courts the widest latitude of discretion in setting aside default orders justified under the right to due process principle. Plain justice demands and the law requires no less that defendants must know what the complaint against them is all about.[52]

What is important is that this case against the Marcoses and their alleged crony and dummy be decided by the anti-graft court on the merits, not merely on some procedural faux pas. In the interest of justice, we need to dispel the impression in the individual respondents' minds that they are being railroaded out of their rights and properties without due process of law.

WHEREFORE, finding no grave abuse of discretion on the part of the Sandiganbayan in granting respondent's Motion for Bill of Particulars, the petition is DISMISSED. The Resolutions of the Sandiganbayan dated January 31, 2000 and March 27, 2001 in Civil Case No. 0006 are AFFIRMED. Petitioner is ordered to prepare and file a bill of particulars containing the ultimate facts as prayed for by respondent within twenty (20) days from notice.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Reyes,[*] JJ., concur.

[*] Additional member due to the inhibition of Associate Justice Antonio T. Carpio and pursuant to Administrative Circular No. 84-2007.

[1] Rollo, pp. 2-33.

[2] Id. at 5; Records, Vol. 1, p. 42. Civil Case No. 0006, titled "Republic of the Philippines v. Roman A. Cruz, Jr., Ferdinand E. Marcos and Imelda R. Marcos," for reconveyance, reversion, accounting, restitution and damages. There were 39 such complaints filed against the Marcoses by the PCGG.

[3] Records, Vol. 4, pp. 1,754-1,760.

[4] Id. at 1,919-1,920.

[5] Records, Vol. 1, pp. 1-24.

[6] Id. at 68-89.

[7] Id. at 175-188; 196-198.

[8] Id. at 210-232.

[9] Id. at 255-264.

[10] Id. at 282-293.

[11] Id. at 306; Imelda R. Marcos, et al. v. Garchitorena, et al., G.R. Nos. 90110-43, February 22, 1990 (Unsigned

Resolution).

[12] Id. at 364.

[13] G.R. Nos. 90110-43, February 22, 1990 (Unsigned Resolution).

[14] Records, Vol. 1, pp. 397-399; 415-418.

[15] Id. at 946-960.

[16] Id. at 987-1,014.

[17] G.R. Nos. 109430-43, December 28, 1994, 239 SCRA 529.

[18] Id. at 534-535.

[19] Records, Vol. 3, pp. 1,161-1,182.

[20] Records, Vol. 4, p. 1,589.

[21] Id. at 1,609-1,611.

[22] Id. at 1,614-1,617.

[23] Id. at 1,633-1,634.

[24] Id. at 1,665-1,672.

[25] Id. at 1,705-1,712.

[26] Id. at 1,760.

[27] Id. at 1,764-1,781.

[28] SECTION 1. When applied for; purpose. – Before responding to a pleading, a party may move for a definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired.

[29] Rollo, p. 13.

[30] Sec 3. Default; declaration of. – If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

(a) Effect of order of default. – A party in default shall be entitled to notice of subsequent proceedings but not to take part in the trial.

(b) Relief from order of default. – A party declared in default may at any time after notice thereof and before judgment file a motion under oath to set aside the order of default upon proper showing that his failure to answer was due to fraud, accident, mistake or excusable negligence and that he has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice. . . .

x x x x

[31] Records, Vol. 1, pp. 218-222.

[32] Rollo, pp. 206-207.

[33] Supra note 31.

[34] Lina v. Court of Appeals, No. L-63397, April 9, 1985, 135 SCRA 637, 641-642; See The Mechanics of Lifting an Order of Default, December 14, 1981, 110 SCRA 223, 227-232.

[35] Amante v. Suñga, No. L-40491, May 28, 1975, 64 SCRA 192, 195-197.

[36] Rules Of Court, Rule 9, Sec. 3, par. (b).

[37] Santos v. Samson, No. L-46371, December 14, 1981, 110 SCRA 215, 220.

[38] 1 F. REGALADO, REMEDIAL LAW COMPENDIUM, 198-199 (7[th] rev. ed., 1999).

[39] Lim Tanhu v. Ramolete, No. L-40098, August 29, 1975, 66 SCRA 425, 453-454.

[40] Rollo, p. 89.

[41] Id. at 65-69.

[42] Virata v. Sandiganbayan, G.R. Nos. 86926 & 86949, October 15, 1991, 202 SCRA 680; Justice Hugo Gutierrez, Jr. dissented, saying the motion to dismiss should have been granted because the complaint consisted of mere inferences and general conclusions, with no statement of ultimate facts to support the sweeping and polemical charges, which cannot substitute for a cause of action.

[43] Id. at 694-695.

[44] G.R. No. 89114, December 2, 1991, 204 SCRA 428.

[45] G.R. No. 106527, April 6, 1993, 221 SCRA 52.

[46] Id. at 62.

[47] G.R. No. 115748, August 7, 1996, 260 SCRA 411.

[48] Id. at 419.

[49] Go Occo & Co. v. De la Costa and Reyes, 63 Phil. 445, 449 (1936).

[50] Republic v. Sandiganbayan, supra note 17, at 538.

[51] Santos v. Liwag, No. L-24238, November 28, 1980, 101 SCRA 327, 329.

[52] Virata v. Sandiganbayan, G.R. No. 114331, May 27, 1997, 272 SCRA 661, 688.

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