REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ESTATE OF ALFONSO LIM, SR., ALFONSO LIM, JR., TEODORO Q. PENA, FERDINAND E. MARCOS (NOW DECEASED AND REPRESENTED BY HIS ESTATE/HEIRS...

G.R. No. 164800. July 22, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

In this Petition for Certiorari under Rule 65, the Republic of the Philippines assails and seeks to nullify the Resolution[1] dated March 28, 2003 of the Sandiganbayan, as effectively reiterated in another resolution of June 18, 2004, which denied petitioner's motion for the issuance of a writ of preliminary attachment in Civil Case No. 0030, entitled Republic v. Alfonso Lim, et al.,[2] a suit to recover ill-gotten or unexplained wealth.

The Facts

On October 2, 1991, in Civil Case No. 0030, the Republic, represented by the Presidential Commission on Good Government (PCGG), filed before the Sandiganbayan, Second Division, an Amended Complaint for reconveyance, reversion, accounting, restitution, and damages. In it, the Republic averred that Alfonso Lim, Sr. (now deceased) and Alfonso Lim, Jr., acting by themselves and/or in unlawful collusion with Ferdinand E. Marcos and Imelda R. Marcos, and taking undue advantage of their relationship, influence, and connection with the latter, embarked upon devices and stratagems to unjustly enrich themselves at the expense of the Republic and the Filipino people. Among other acts, the Lims were alleged to have:

> (a) actively solicited and obtained, upon the personal behest of [the Marcoses], with the active collaboration of Teodoro Q. Peña, who was then Minister of Natural Resources, additional timber concession in favor of Taggat Industries, Inc. (TAGGAT) and Pamplona Redwood Veneer, Inc. (PAMPLONA), corporations beneficially held and controlled by Alfonso Lim and Alfonso Lim, Jr., which, in addition to other areas already awarded to TAGGAT and PAMPLONA, resulted in their concession holdings in excess of the allowable limits prescribed under Section 11, Article XIV of the 1973 Constitution;
>
> (b) actively solicited and obtained, upon the personal behest of [the Marcoses], a management contract in favor of TAGGAT to operate and manage the logging concessions of Veterans Woodwork, Inc. (VETERANS), Sierra Madre Wood Industries, Inc. (SIERRA MADRE), and Tropical Philippines Wood Industries, Inc. (TROPICAL) over and above the objections of VETERANS;
>
> (c) obtained a permit to cut down a certain number of Narra and Amaciga trees, and, on the very same day, was likewise given an authorization by Ferdinand E. Marcos to export the same, in violation of existing ban against cutting and export of the aforesaid trees;
>
> (d) obtained, in favor of PAMPLONA, a syndicated loan in the amount of millions of US dollars from a consortium of international banks, secured by the guarantee of the National Investment and Development Corporation (NIDC), a subsidiary of the Philippine National Bank; and in view of the default by PAMPLONA

> in the payment of its principal and/or interest amortizations, the loan was converted, under the debt rescheduling arrangement between Republic and its foreign creditor banks, into a public sector obligation of Republic, to the grave and irreparable damage of the Republic and the Filipino people.

The Republic also alleged that the foregoing acts, singly or collectively, constituted grave and gross abuse of official position and authority, flagrant breach of public trust and fiduciary obligations, brazen abuse of right and power, unjust enrichment, and violation of the Constitution and laws of the Republic to the grave and irreparable damage to it and its citizens.

As its main prayer, the Republic asked for the reconveyance of all funds and property impressed with constructive trust in favor of the Republic and the Filipino people, "as well as funds and other property acquired with [respondents'] abuse of right and power and through unjust enrichment, including but not limited to the properties listed in Annex "A" of the Complaint together with the accruing income or increment from date of acquisition until final judgment."

The properties listed in the said Annex "A"[3] consist--besides the Lims' assets sequestered in accordance wth Executive Order Nos. 1 and 2, Series of 1986--of the assets and other properties of Lim, Sr., as follows:

> - a parcel of land with TCT No. 2981 (Lot A), located at Barrio Birinayan, Talisay, Batangas;
>
> - a parcel of raw land with TCT No. 11750 (Lot 8-C-53) located at Muzon, San Isidro, Angono, Rizal;
>
> - a parcel of raw land with TCT No. 11749 (Lot 8-C-51) located at Muzon, San Isidro, Angono. Rizal;
>
> - a parcel of land with TCT No. 11728 (Lot 8-C-9) located at Muzon, San Isidro, Angono, Rizal;
>
> - a parcel of land with TCT No. 11732 (Lot 8-C-17) located at Muzon, San Isidro, Angono, Rizal;
>
> - a parcel of agricultural land with TCT No. 11728 (Lot 8-C-9) located at Muzon, San Isidro, Angono, Rizal;
>
> - a parcel of agricultural land with TCT No. 11727 (Lot 8-C-7) located at Muzon, San Isidro, Angono, Rizal;
>
> - a parcel of residential land with TCT No. 315 located at Maharlika, Tagaytay City;
>
> - a parcel of agricultural/residential land with TCT No. 157570 located at Berinayan, Laurel, Batangas;
>
> - a parcel of land and building in the name of SIERRA MADRE as reported by Task Force SEAFRONT, Nov. 20, 1986;
>
> - a parcel of land and building in the name of PAMPLONA as reported by Task Force SEAFRONT, November 20, 1986;
>
> - Contigous [13] parcels of land located at Claveria, Cagayan in the name of TAGGAT Industries, Inc. as reported by Task Force SEAFRONT, November 7, 1987:
>
> x x x x
>
> - a parcel of agricultural land in the name of TAGGAT with OCT No. O-1108 (S) Lot No. 1195;
>
> - a parcel of commercial land in the name of TAGGAT with TCT No. 78732 located at Romualdez Street, Paco, Manila;
>
> - buildings and improvements in the name of TAGGAT erected on OCT No. 0-1104, 0-11017, 0-1109;
>
> - buildings in the name of TAGGAT erected on TCT No. 78732; Paco, Manila.

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[OTHER PROPERTIES]

A. Shares of Stocks in:

1. Taggat Industries, Inc. (TAGGAT)

1350, Romualdez Street, Paco, Manila

2. Pamplona Redwood Veneer, Inc. (PAMPLONA)

1350, Romualdez Street, Paco, Manila

3. Sierra Madre Wood Industries, Inc. (SIERRA MADRE)

79 Doña Hemady corner 13[th] St., New Manila, Quezon City

4. Veterans Woodworks, Inc. (VETERANS)

79 Doña Hemady corner 13[th] St., New Manila, Quezon City

5. Southern Plywood Corporation (SPC)

5[th] Floor Jardine Davies Bldg., 222 Sen. J. Puyat Avenue, Makati, Metro Manila

6. Western Cagayan Lumber (WCL)

Jardine Davies Building, 222 Sen. J. Puyat Avenue, Makati, Metro Manila

B. Property, Plant and Equipment

x x x x

C. Aircraft [2 units]

x x x x

D. Current Assets [as reported]

x x x x

E. Investments and Other Assets

- Due from affiliated companies, TAGGAT, as reported

- Investment in Stocks, TAGGAT, as reported

- Deferred Charges and Other Assets, TAGGAT, as reported

F. Bank Accounts

- PAMPLONA Accounts

a. The Consolidated Bank and Trust Co.
b. Equitable Banking Corporation

- TAGGAT Acccounts

a. The Consolidated Bank and Trust Co,
b. Philippine National Bank
c. Equitable Banking Corporation
d. Philippine Banking Corporation

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e. Allied Banking Corporation

G. Other

- Frozen Bank Accounts and Other Assets of Alfonso Lim, Sr., Alfonso Lim, Jr. and Lawrence Lim

Meanwhile, Lim, Sr. passed away. On June 22, 1998, his estate filed a motion to lift the sequestration[4] over certain real properties[5] contending that the PCGG impleaded him owing to his alleged association with former Pres. Marcos. The estate would add, however, that Lim, Sr. secured title over almost all of his real properties thus sequestered way back in 1948, long before the Marcoses came to power.

To the motion to lift, the Republic interposed an opposition, alleging that the sequestered lots and titles stand as security for the satisfaction of any judgment the Republic may obtain against the estate of Lim, Sr., his family, or his group of companies.

By Resolution[6] dated March 17, 2001, the Sandiganbayan lifted the sequestration order in question on the strength of the following pertinent premises, to wit:

> The sequestration of some of the real properties of movant-defendant [estate of Lim, Sr.] is a remedial measure resorted to in order to preserve these properties along with others alleged to have taken illegally x x x, and "in order to prevent the same from disappearance, destruction, loss or dissipation and /or to foil acts that may render moot and academic the efforts to recover the aforesaid alleged "ill-gotten wealth". However, the pertinent provisions of Executive Order Nos. 1, 2 and 14 are explicit in saying that the properties that are supposed to be "sequestered" are those x x x amassed during the regime of the deposed President Ferdinand E. Marcos and not before or later thereto. x x x

In time, the Republic sought but was later denied reconsideration of the sequestration-lifting resolution of the Sandiganbayan.[7]

Meanwhile, after presenting its evidence in the main case, the Republic filed its Formal Offer of Evidence dated October 8, 2001.[8] On December 5, 2001, the Sandiganbayan issued a terse order admitting all the documentary exhibits of the Republic consisting of Exhibits "A" to "G," inclusive of their submarkings.[9]

The following incidents/events then transpired:

(1) Sometime in January 2002, the estate of Lim, Sr., Ruthie Lim, and two others, as defendants a quo, filed a Demurrer to Evidence[10] dated January 14, 2002, on the ground of either irrelevancy or immateriality of the Republic's evidence. As argued, the same evidence did not prove or disprove that the demurring defendants, on their own or in concert with the Marcoses, amassed ill-gotten wealth. Lim, Jr. later filed a Manifestation[11] adopting the demurrer to evidence of the estate of Lim, Sr., et al.

(2) On July 4, 2002, the Sandiganbayan denied the Republic's motion for reconsideration of the graft court's resolution lifting the sequestration order.[12]

(3) In an obvious bid to counter the effects of the lifting of the sequestration, the Republic, on September 9, 2002, filed a Motion for the Issuance of a Writ of Preliminary Attachment[13] against respondents in the amount of its claim. The Republic alleged that respondent Lims "were guilty of fraud in incurring various legal obligations which the present action has been brought," by "taking undue advantage of their relationship, influence and connection with the [Marcoses]" to unjustly enriched themselves to the prejudice of the Republic.

Except for one, all the other respondents belonging to the Lim group filed their respective comment or opposition to the Republic's motion for a writ of attachment.

(4) On March 28, 2003, the Sandiganbayan, stating that bare allegations of the commission of fraud by respondents in incurring the aforesaid obligations are not sufficient for the granting of the writ of preliminary attachment, denied, via a Resolution,[14] the corresponding motion.

In due time, the Republic interposed a motion seeking reconsideration of the Sandiganbayan's March 28, 2003 denial action.[15]

(5) By Resolution dated July 17, 2003, the Sandiganbayan denied respondents' demurrer to evidence.[16]

Forthwith, the estate of Lim, Sr., Taggat Industries, Inc. (TAGGAT), and Pamplona Redwood Veneer, Inc. (PAMPLONA), followed later by Lim, Jr., respectfully moved for reconsideration of the July 17, 2003 Resolution.

(6) On June 18, 2004, the Sandiganbayan resolved to affirm the denial of the respondents' demurrer to evidence. It also denied in its March 28, 2003 resolution the Republic's motion for the issuance of a writ of preliminary attachment.[17]

Hence, this recourse is before us.

The Issues

The two interrelated issues petitioner Republic tenders boils down to: whether the Sandiganbayan, in the light of the denial of respondents' demurrer to evidence, acted with grave abuse of discretion amounting to lack or excess of jurisdiction in not considering that the evidence already on record support the issuance of a writ or preliminary attachment.

The Republic contends that the pieces of evidence offered before and admitted by the Sandiganbayan provide sufficient basis for the issuance of a writ of preliminary attachment. Thus, the graft court, as the Republic argues, committed grave abuse of discretion amounting to excess of jurisdiction in denying the writ of preliminary injunction by not considering the evidence already on record and in ruling contrary to its findings and conclusions when it denied respondents' demurrer to evidence.

Respondents, on the other hand, reiterate their position on the absence of evidence of fraud, as required under Section 1(d), Rule 57 of the Rules of Court, which would justify the issuance of the desired writ. In this regard, they reproduced what the Sandiganbayan said in its March 28, 2003 resolution on the matter of fraud, thus: "These are general averments devoid of the particulars of time, persons, etc., in support of the serious allegation that [respondents] are guilty of fraud in incurring these alleged legal obligation. Bare allegations that [respondents] have been guilty of fraud in incurring the aforesaid obligations are not sufficient for the granting of the writ of attachment."[18]

The Court's Ruling

An assiduous review of the antecedent facts and factual findings and conclusions of the Sandiganbayan relative to the denial of demurrer to evidence and the writ of preliminary injunction compels this Court to grant the instant petition.

Nature of Preliminary Attachment

Attachment is an ancillary remedy applied for not for its own sake but to enable the attaching party to realize upon relief sought and expected to be granted in the main or principal action;[19] it is a measure auxiliary or incidental to the main action. As such, it is available during the pendency of the action which may be resorted to by a litigant to preserve and protect certain rights and interests therein pending rendition, and for purposes of the ultimate

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effects, of a final judgment in the case. As a corollary proposition, an order granting an application for a writ of preliminary attachment cannot, owing to the incidental or auxiliary nature of such order, be the subject of an appeal independently of the main action.[20]

The instant case is one of those mentioned in Sec. 1, Rule 57 of the Rules, specifically the section's paragraph "d," wherein a writ of preliminary attachment may be issued. It provides:

> SECTION 1. Grounds upon which attachment may issue.--A plaintiff or any proper party may, at the commencement of the action or at any time thereafter, have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases:
>
> x x x x
>
> (d) In an action against a party who has been guilty of fraud in contracting the debt or incurring the obligation upon which the action is brought, or in concealing or disposing of the property for the taking, detention or conversion of which the action is brought;

For a writ of attachment to issue under the above-quoted rule, the applicant must sufficiently show the factual circumstances of the alleged fraud.

Fraud may be defined as the voluntary execution of a wrongful act, or a willful omission, knowing and intending the effects which naturally and necessarily arise from such act or omission.[21] In its general sense, fraud is deemed to comprise anything calculated to deceive, including all acts and omissions and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or by which an undue and unconscientious advantage is taken of another.[22] Fraud is also described as embracing all multifarious means which human ingenuity can device, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated.[23] Fraudulent, on the other hand, connotes intentionally wrongful, dishonest, or unfair.[24]

In the case at bar, the Republic has, to us, sufficiently discharged the burden of demonstrating the commission of fraud committed by respondents Lims as a condition sine qua non for the issuance of a writ of preliminary attachment. The main supporting proving document is the Republic's Exhibit "B" which the Sandiganbayan unqualifiedly admitted in evidence. And the fraud or fraudulent scheme principally came in the form of Lim, Sr. holding and/or operating logging concessions which far exceeded the allowable area prescribed under the 1973 Constitution.

A cursory evaluation of the Republic's Exhibit "B"--the Decision dated November 20, 1986 of then Minister Ernesto M. Maceda of the Ministry Natural Resources (MNR)[25] in an unnumbered MNR case entitled IN RE: VIOLATIONS OF VETERANS WOODWORKS, INC. AND ALFONSO LIM, SR. AND TAGGAT INDUSTRIES, INC., canceling the logging concessions[26] enjoyed by the Lim Group--yields the following undisputed relevant data:

(1) Lim, Sr., through the seven (7) respondent corporations, had been holding/operating/managing several timber concessions with a total area of 533,880 hectares, more or less, which was far in excess of the 100,000 hectares allowed in the 1973 Constitution;[27]

(2) Since a wide expanse of forest lands were in between the different Lim concessions, the Lims had effectively access to a total of 633,880 hectares of forests; and

(3) Other violation of the constitutional prohibition applies also to three (3) corporations (Acme Plywood Co.,

Inc., Western Cagayan Lumber Co., Inc., and Southern Plywood Corporation).

As is made abundantly clear in the aforesaid Maceda decision, the MNR revoked or canceled the concessions or timber license agreements (TLAs) of Lim, Sr. on the principal ground that the timber award was made in utter violation of the Constitutional limitations on the granting of logging concessions.[28] The same decision also indicated that Lim, Sr.'s "influence, power and strong connection with the past [i.e., Marcos] dispensation"[29] explained his receipt of special privileges and concessions unfettered by constitutional constraints. So influential was Lim, Sr. that he and TAGGAT and sister companies received certain timber-related benefits without the knowledge, let alone approval, of MNR.[30] Lim, Sr. doubtless utilized to the hilt his closeness to the Marcoses to amass what may prima facie be considered as illegal wealth.

Scheme to Circumvent Constitutional Prohibition

Sec. 11 of Article XIV of the governing 1973 Constitution states that "no private corporation or association may hold by lease, concession, license, or permit, timber or forest lands and other timber or forest resources in excess of one hundred thousand hectares." Complementing this provision was Chapter I, No. 3(e) of Forestry Administrative Order (FAO) No. 11 prohibiting any individual, corporation, partnership, or association from acquiring a timber license or license agreement covering an area in excess of 100,000 hectares. Likewise, Chapter I, No. 3(d) of FAO No. 11 states that no individual corporation, partnership, or association who is already a holder of an ordinary timber license or license agreement nor any member of the family, incorporator, director, stockholder, or member of such individual, corporation, partnership, or association shall be allowed to acquire a new timber license or license agreement or any interest or participation in it.

The constitutional and statutory limitations on allowable area leases and concessions were obviously meant to prevent the concentration of large tracts of public land in the hands of a single individual. But as the Office of the Solicitor General aptly observed, citing the Maceda decision: "For one Filipino out of 55 million to own, operate or in one form [or] another be financially interested in more than 600,000 hectares out of a total forest land of 14 million hectares is certainly unfair, unacceptable and unconstitutional by any standard."[31]

Lim, Sr., as earlier stated, had been holding/operating/managing several timber concessions through the seven (7) logging companies for an aggregate area of 533,880 hectares, as follows:

Name of Corporation

TLA No.

Concession Area

(1) Taggat Industries, Inc.

071

107,845 has.

(2) Pamplona Redwood Veneer Co., Inc.

074

118,315 has

(3) Southern Plywood Corp. (one share)

321

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71,300 has.

(4) Western Cagayan Lumber Co., Inc. (one share)

073

69,675 has.

(5) Acme Plywood & Veneer Co,, Inc. (one share)

075

84,525 has.

(6) Veterans Woodworks, Inc.

63,179 has.

(7) Sierra Madre Wood Ind., Inc.

345

19,050 has.

TOTAL

533,880 has.

The Maceda decision stressed that Lim, Sr. had one share each in the three corporations, namely: (1) Acme Plywood and Veneer Co., Inc. (ACME); (2) Western Cagayan Lumber Co., Inc. (WESTERN); and (3) Southern Plywood Corporation (SPC). These corporations, the decision added, likewise violated the Constitution considering that Lim, Sr. had control over them as owner-founder. To cover the constitutional violation, Lim, Jr. was used as a front and made to appear as President of the mentioned three corporations.[32]

There can be no quibbling that MNR correctly revoked/canceled all the timber concessions of Lim, Sr., namely: TLA No. 071 (TAGGAT), TLA No. 074 (PAMPLONA), TLA No. 321 (SPC), TLA No. 073 (WESTERN), and TLA No. 075 (ACME). As it were, the TLAs of TAGGAT and PAMPLONA each exceeded the 100,000-hectare threshold prescribed by the 1973 Constitution. Initially, the execution and granting of those timber license agreements were already tainted with fraud. The Lims resorted to their close connection with the Marcoses for the approval of the timber license agreements and the Lims were given access effectively to a total 633,880 hectares in violation of the 1973 Constitution and FAO No. 11.

Indeed, the Lims' availment and enjoyment of logging concessions grossly in excess of constitutional limits amount to a voluntary execution of a wrongful act, if not a serious breach of legal duty. By their acts, the Lims veritably defrauded and cheated the Filipino people--the ultimate beneficiaries of the country's natural resources.

Denial of Demurrer to Evidence Indicative
of the Commission of Fraudulent Acts

The evidence that clearly supports the issuance of a writ of preliminary attachment sought by Republic is already on record before the Sandiganbayan. As a matter of fact, the anti-graft court already ruled and considered that the evidence so far presented by the Republic had been sufficient to support a finding that respondents had committed illegal and fraudulent acts against the Republic and the Filipino people. This was the tenor of the Sandiganbayan's resolution denying the respondents' demurrer to evidence.

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A demurrer to evidence is defined as "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue."[33] The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.[34] In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt.[35] And when the court denies the demurrer, the defendant has to present countervailing evidence against the evidence adduced by the plaintiff.[36]

In the case at bar, when the Sandiganbayan denied respondents' demurrer to evidence, it in effect ruled that the evidence presented by the prosecution is, absent a countervailing evidence, prima facie sufficient to support an adverse verdict against them for amassing illegal wealth. The Sandiganbayan, in its underlying resolution of July 17, 2003 denying the demurrer, wrote:

> The Demurrer is denied.
>
> To support the charges, plaintiff introduced, among others, Exhibit "B", a decision dated November 20, 1986 by then DENR Secretary Ernesto Maceda which, after hearing, revoked or cancelled the respective Timber License Agreements (TLAs) of defendants Alfonso Lim, Sr., Taggat Industries, Inc., Pamplona Redwood Veneer, [etc.] after an investigation found that the same entities held timber concessions in excess of what was allowed by the Constitution. The same decision likewise made certain findings of facts that x x x Lim, Sr. enjoyed close association with former President Ferdinand E. Marcos as a consequence of which the latter granted x x x Lim, Sr. special privileges and concessions in gross violation of the Constitution. In addition, Exhibit "E" indicates that x x x Taggat Industries, chiefly owned by defendant Lim Sr., using his close association with then President Marcos, acquired and controlled three (3) other logging firms, namely Veteran Woodworks, Inc., Tropical Philippine Wood Industries, Inc., and Sierra Madre Wood Industries, Inc. x x x. This resulted to the acquisition of defendant Lim Sr. of excessive number of timber concessions.
>
> Given the circumstances, this Court cannot simply brush aside the foregoing considering that what the defendants-movants proffer are mere blanket denial of the charges. In demurrer to evidence, the party demurring challenges the sufficiency of the whole evidence to sustain a verdict. The court, in passing upon the sufficiency of the evidence raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment. Applying the said ruling in the instant case, there exists prima facie evidence on record x x x to support or sustain the charges against the defendants-movants. There is therefore a further need on the part of the defendants-movants to submit the proof to the contrary other than their mere simple disclaimer.[37]

Sandiganbayan Did Not Consider
Evidence in Denying Attachment

Given the foregoing pronouncement from the Sandiganbayan, the Court is completely at a loss to understand the graft court's denial of the Republic's plea for the ancillary remedy of preliminary attachment. The wrongful act--the fraud perpetuated by Lim Sr. and/or his corporations on the Republic--is written over or easily deducible from the adverted Maceda decision and Exhibit "E." While fraud cannot be presumed, it need not be proved by direct evidence and it can well be inferred from attendant circumstances.[38] Withal, we cannot but agree with the Republic's contention that the Sandiganbayan's denial of its motion for a writ of preliminary attachment constitutes grave and patent abuse of discretion amounting to lack or excess of jurisdiction.

A scrutiny of the above-quoted July 17, 2003 Resolution readily shows that the Sandiganbayan indeed considered the evidence presented and offered by the Republic, specifically Exhibits "B" and "E" which convincingly show the finding that respondents' acts were tainted with fraud in the acquisition of the logging concessions due to their close association with the Marcoses.

It is incongruous, therefore, for the Sandiganbayan to deny the writ of preliminary attachment when the pieces of evidence on record which it used and based its findings and conclusions in denying the demurrer to evidence were the same ones which demonstrate the propriety of the writ of preliminary attachment. Clearly, the Republic has complied with and satisfied the legal obligation to show the specific acts constitutive of the alleged fraud committed by respondents. The denial of the prayed writ, thus, evidently constitutes grave abuse of discretion on the part of Sandiganbayan. After all, "attachment is a mere provisional remedy to ensure the safety and preservation of the thing attached until the plaintiff can, by appropriate proceedings, obtain a judgment and have such property applied to its satisfaction."[39] Indeed, the properties of respondents sought to be subjected to the ancillary writ of preliminary attachment are not only in danger of being lost but should be placed under custodia legis to answer for any liabilities that may be adjudged against them in the instant case.

WHEREFORE, the Sandiganbayan Resolutions dated March 28, 2003 and June 18, 2004 are hereby REVERSED and SET ASIDE. Accordingly, the 2[nd] Division of Sandiganbayan is hereby DIRECTED to ISSUE the Writ of Preliminary Attachment prayed for by the Republic. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio,[*] Nachura, and Peralta, JJ., concur..

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[*] Additional member as per July 13, 2009 raffle.

[1] Penned by Associate Justice Godofredo L. Legaspi and concurred in by Associate Justices Sandoval and Victorino.

[2] Specifically, the amended complaint named as defendants, apart from Lim, Sr., the following: Lim, Jr., Teodoro Q. Pena, Ferdinand E. Marcos (now deceased and represented by his Estate/Heirs), Imelda R. Marcos, Taggat Industries, Inc., Pamplona Redwood Veneer, Inc., Southern Plywood, Western Cagayan Lumber, Acme Plywood, Veteran Woodwork, Inc., Sierra Madre Wood Industries, Inc., and Tropical Philippines Wood Industries, Inc.

[3] Rollo, pp. 71-74.

[4] Id. at 75-77.

[5] The Estate of Alfonso Sr. moved for the lifting of sequestration over lands covered by TCT Nos. 11727, 11728, 11732, 11748, 11749, and 11750 issued on December 15, 1948 by the Register of Deeds of Rizal, and TCT No. 315 issued on November 25, 1948 issued by Register of Deeds of Tagaytay City in the name of Lim, Sr.

[6] Rollo, pp. 98-103.

[7] Id. at 104-108.

[8] Id. at 109-113.

[9] Id. at 188.

[10] Id. at 189-195.

[11] Id. at 196-198.

[12] Id. at 206-208.

[13] Id. at 209-214.

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[14] Id. at 35-41.

[15] Id. at 42-43.

[16] Id. at 230-233.

[17] Id. at 44-51.

[18] Id. at 39.

[19] BAC Manufacturing and Sales Corporation v. Court of Appeals, G.R. No. 96784, August 2, 1991, 200 SCRA 130, 139; citing Sievert v. CA, No. L-84034, December 22, 1988, 168 SCRA 692.

[20] 1 Regalado, Remedial Law Compendium 606 (7th ed.).

[21] Legaspi Oil Co., Inc. v. Court of Appeals, G.R. No. 96505, July 1, 1993, 224 SCRA 213, 216.

[22] Garcia v. People, G. R. No. 144785, September 11, 2003, 410 SCRA 582, 589; Commissioner of Internal Revenue v. CA, G.R. No. 119322, June 4, 1996, 257 SCRA 200.

[23] People v. Balasa, G.R. No. 106357, September 3, 1998, 295 SCRA 49, 71-72; citing Alleje v. CA, G.R. No. 107152, January 25, 1995, 240 SCRA 495.

[24] Clapp, DICTIONARY OF THE LAW 194.

[25] Now the Department of Environment and Natural Resources.

[26] In part the cancellation decision reads: All the timber concessions of Alfonso Lim, Sr., namely: TLA No. 071 (Taggat Industries, Inc.), TLA No. 074 (Pamplona Redwood Veneer Co., Inc.); TLA No. 321 (Southern Plywood Corp.); and TLA No. 073 (Western Cagayan Lumber, Inc.) and TLA No. 075 (Acme Plywood & Veneer Co., Inc.) are hereby ordered REVOKED/CANCELLED, and the areas respectively covered thereby be reverted to the mass of public forest. The District Foresters or the WIDA area Managers concerned, as the case may be, are hereby directed to conduct inventories of the logs cut prior to these cancellation orders and to cause the removal of logging equipments from the production areas of the licensee within thirty (30) days from date hereof.

[27] Art. XIV, Sec. 11 of the 1973 Constitution provides that "[N]o private corporation or association may hold by lease, concession, license or permit, timber or forest lands and other timber or forest resources in excess of one hundred hectares."

[28] The canceled TLAs were those pertaining to TAGGAT, PAMPLONA, Southern Plywood Corp., Western Cagayan Lumber, Inc., and Acme Plywood & Veneer Co., Inc.

[29] Rollo, p. 163.

[30] Id. at 153.

[31] Id. at 18-19.

[32] Id. at 161.

[33] Rivera v. People, G.R. No. 163996, June 9, 2005, 460 SCRA 85, 91; citing Gutib v. Court of Appeals, G.R. No. 131209, August 13, 1999, 312 SCRA 365, 371.

[34] Id.; citing Ong v. People, G.R. No. 140904, October 9, 2000, 342 SCRA 372, 383.

[35] Id.; citing Choa v. Choa, G.R. No. 143376, November 26, 2002, 392 SCRA 641, 648.

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[36] Rules of Court, Rule 33, Section 1.

[37] Rollo, pp. 232-233.

[38] Godinez v. Alano, A.M. No. RTJ-98-1409, February 18, 1999, 303 SCRA 259, 271.

[39] Sta. Ines Melale Forest Products Corp. v. Macaraig, Jr., G.R. Nos. 80849 & 81114, December 2, 1998, 299 SCRA 491, 515 as cited in Chuidian v. Sandiganbayan, G.R. No. 139941, January 19, 2001, 349 SCRA 745, 763.

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