MAJOR GENERAL CARLOS F. GARCIA, PETITIONER, VS. SANDIGANBAYAN AND THE OFFICE OF THE OMBUDSMAN, RESPONDENTS.

G.R. No. 165835. June 22, 2005

Ponente: TINGA, J.

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TINGA, J.:

Petitioner Major General Carlos F. Garcia was the Deputy Chief of Staff for Comptrollership, J6, of the Armed Forces of the Philippines. Petitioner filed this Petition for certiorari and prohibition under Rule 65 to annul and set aside public respondent Sandiganbayan's Resolution[1] dated 29 October 2004 and Writ of Preliminary Attachment[2] dated 2 November 2004, and to enjoin public respondents Sandiganbayan and Office of the Ombudsman from further proceeding with any action relating to the enforcement of the assailed issuances.

On 27 September 2004, Atty. Maria Olivia Elena A. Roxas, Graft Investigation and Prosecution Officer II of the Field Investigation Office of the Office of the Ombudsman, after due investigation, filed a complaint against petitioner with public respondent Office of the Ombudsman, for violation of Sec. 8, in relation to Sec. 11 of Republic Act (R.A.) No. 6713,[3] violation of Art. 183 of the Revised Penal Code, and violation of Section 52 (A)(1), (3) and (20) of the Civil Service Law. Based on this complaint, a case for Violations of R.A. No. 1379,[4] Art. 183 of the Revised Penal Code, and Sec. 8 in relation to Sec. 11 of R.A. No. 6713, docketed as Case

No. OMB-P-C-04-1132-I, was filed against petitioner.[5] Petitioner's wife Clarita Depakakibo Garcia, and their three sons, Ian Carl, Juan Paolo and Timothy Mark, all surnamed Garcia, were impleaded in the complaint for violation of R.A. No. 1379 insofar as they acted as conspirators, conduits, dummies and fronts of petitioner in receiving, accumulating, using and disposing of his ill-gotten wealth.

On the same day, 27 October 2004, the Republic of the Philippines, acting through public respondent Office of the Ombudsman, filed before the Sandiganbayan, a Petition with Verified Urgent Ex Parte Application for the Issuance of a Writ of Preliminary Attachment[6] against petitioner, his wife, and three sons, seeking the forfeiture of unlawfully acquired properties under Sec. 2 of R.A. No. 1379, as amended. The petition was docketed as Civil Case No. 0193, entitled "Republic of the Philippines vs. Maj. Gen. Carlos F. Garcia, et al." It was alleged that the Office of the Ombudsman, after conducting an inquiry similar to a preliminary investigation in criminal cases, has determined that a prima facie case exists against Maj. Gen. Garcia and the other respondents therein who hold such properties for, with, or on behalf of, Maj. Gen. Garcia, since during his incumbency as a soldier and public officer he acquired huge amounts of money and properties manifestly out of proportion to his salary as such public officer and his other lawful income, if any.[7]

Acting on the Republic's prayer for issuance of a writ of preliminary attachment, the Sandiganbayan issued the questioned Resolution granting the relief prayed for. The corresponding writ of preliminary attachment was subsequently issued on 2 November 2004 upon the filing of a bond by the Republic. On 17 November 2004, petitioner (as respondent a quo) filed a Motion to Dismiss[8] in Civil Case No. 0193 on the ground of lack of

jurisdiction of the Sandiganbayan over forfeiture proceedings under R.A. No. 1379. On even date, petitioner filed the present Petition, raising the same issue of lack jurisdiction on the part of the Sandiganbayan.

Petitioner argues in this Petition that the Sandiganbayan is without jurisdiction over the "civil action" for forfeiture of unlawfully acquired properties under R.A. No. 1379, maintaining that such jurisdiction actually resides in the Regional Trial Courts as provided under Sec. 2[9] of the law, and that the jurisdiction of the Sandiganbayan in civil actions pertains only to separate actions for recovery of unlawfully acquired property against President Marcos, his family, and cronies as can be gleaned from Sec. 4 of Presidential Decree (P.D.) No. 1606,[10] as amended, and Executive Orders (E.O.) Nos. 14[11] and 14-A.[12]

Theorizing that the Sandiganbayan, under P.D. No. 1606 or the law creating it, was intended principally as a criminal court, with no jurisdiction over separate civil actions, petitioner points to President Corazon C. Aquino's issuances after the EDSA Revolution, namely: (1) E.O. No. 1 creating the Presidential Commission on Good Government (PCGG) for the recovery of ill-gotten wealth amassed by President Ferdinand E. Marcos, his family and cronies, (2) E.O. No. 14 which amended P.D. No. 1606 and R.A. No. 1379 by transferring to the Sandiganbayan jurisdiction over civil actions filed against President Marcos, his family and cronies based on R.A. No. 1379, the Civil Code and other existing laws, and (3) E.O. No. 14-A whch further amended E.O. No. 14, P.D. No. 1606 and R.A. No. 1379 by providing that the civil action under R.A. No. 1379 which may be filed against President Marcos, his family and cronies, may proceed independently of the criminal action.

Petitioner gathers from the presidential issuances that the Sandiganbayan has been granted jurisdiction only over the separate civil actions filed against President Marcos, his family and cronies, regardless of whether these civil actions were for recovery of unlawfully acquired property under R.A. No. 1379 or for restitution, reparation of damages or indemnification for consequential damages or other civil actions under the Civil Code or other existing laws. According to petitioner, nowhere in the amendments to P.D. No. 1606 and R.A. No. 1379 does it provide that the Sandiganbayan has been vested jurisdiction over separate civil actions other than those filed against President Marcos, his family and cronies.[13] Hence, the Sandiganbayan has no jurisdiction over any separate civil action against him, even if such separate civil action is for recovery of unlawfully acquired property under R.A. No. 1379.

Petitioner further contends that in any event, the petition for forfeiture filed against him is fatally defective for failing to comply with the jurisdictional requirements under Sec. 2, R.A. No. 1379, [14] namely: (a) an inquiry similar to a preliminary investigation conducted by the prosecution arm of the government; (b) a certification to the Solicitor General that there is reasonable ground to believe that there has been violation of the said law and that respondent is guilty thereof; and (c) an action filed by the Solicitor General on behalf of the Republic of the Philippines.[15] He argues that only informations for perjury were filed and there has been no information filed against him for violation of R.A. No. 1379. Consequently, he maintains, it is impossible for the Office of the Ombudsman to certify that there is reasonable ground to believe that a violation of the said law had been committed and that he is guilty thereof. The petition is also supposedly bereft of the required certification which should be made by the investigating City or Provincial Fiscal (now Prosecutor) to the Solicitor General. Furthermore, he opines that it should have been the Office of the Solicitor General which filed the petition and not the Office of the Ombudsman as in this case. The petition being fatally defective, the same should have been dismissed, petitioner concludes.

In their Comment,[16] respondents submit the contrary, noting that the issues raised by petitioner are not novel as these have been settled in Republic vs. Sandiganbayan[17] which categorically ruled that "there is no issue that jurisdiction over violations of [R.A.] Nos. 3019 and 1379 now rests with the Sandiganbayan."[18] Respondents argue that under the Constitution[19] and prevailing statutes, the Sandiganbayan is vested with authority and

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jurisdiction over the petition for forfeiture under R.A. No. 1379 filed against petitioner. Respondents point to Sec. 4.a (1) (d) of P.D. 1606, as amended, as the prevailing law on the jurisdiction of the Sandiganbayan, thus:

> Sec. 4. Jurisdiction.—The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
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> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, 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:
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
> ....
>
> (d) Philippine army and air force colonels, naval captains, and all officers of higher ranks;
>
> ....

As petitioner falls squarely under the category of public positions covered by the aforestated law, the petition for forfeiture should be within the jurisdiction of the Sandiganbayan.

Respondents also brush off as inconsequential petitioner's argument that the petition for forfeiture is "civil" in nature and the Sandiganbayan, having allegedly no jurisdiction over civil actions, therefore has no jurisdiction over the petition, since the same P.D. No. 1606 encompasses all cases involving violations of R.A. No. 3019, irrespective of whether these cases are civil or criminal in nature. The petition for forfeiture should not be confused with the cases initiated and prosecuted by the PCGG pursuant to E.O. Nos. 14 and 14-A, as these are dealt with under a separate subparagraph of P.D. No. 1606, as amended, in particular Sec. 4.c thereof.[20] Further, respondents stress that E.O. Nos. 14 and 14-A exclusively apply to actions for recovery of unlawfully acquired property against President Marcos, his family, and cronies. It would also not be accurate to refer to a petition for forfeiture as a "civil case," since it has been held that petitions for forfeiture are deemed criminal or penal and that it is only the proceeding for its prosecution which is civil in nature.[21]

The Office of the Ombudsman filed a separate Comment,[22] likewise relying on Republic v. Sandiganbayan to argue that the Sandiganbayan has jurisdiction over the petition for forfeiture filed against petitioner. The Ombudsman explains that the grant to the Sandiganbayan of jurisdiction over violations of R.A. No. 1379 did not change even under the amendments of

R.A. No. 7975[23] and R.A. No. 8294[24], although it came to be limited to cases involving high-ranking public officials as enumerated therein, including Philippine army and air force colonels, naval captains, and all other officers of higher rank, to which petitioner belongs.[25]

In arguing that it has authority to investigate and initiate forfeiture proceedings against petitioner, the Office of the Ombudsman refers to both the Constitution[26] and R.A. No. 6770.[27] The constitutional power of investigation of the Office of the Ombudsman is plenary and unqualified; its power to investigate any act of a public official or employee which appears to be "illegal, unjust, improper or inefficient" covers the unlawful acquisition of wealth by public officials as defined under R.A. No. 1379. Furthermore, Sec. 15 (11)[28] of R.A. No. 6770 expressly empowers the Ombudsman to investigate and prosecute such cases of unlawful acquisition of wealth. This authority of the Ombudsman has been affirmed also in Republic vs. Sandiganbayan.[29]

The Office of the Ombudsman then refutes petitioner's allegation that the petition for forfeiture filed against him failed to comply with the procedural and formal requirements under the law. It asserts that all the requirements of

R.A. No. 1379 have been strictly complied with. An inquiry similar to a preliminary investigation was conducted by a Prosecution Officer of the Office of the Ombudsman. The participation of the Office of the Solicitor General, claimed by petitioner to be necessary, is actually no longer required since the Office of the Ombudsman is endowed with the authority to investigate and prosecute the case as discussed above.[30]

In addition, the Office of the Ombudsman alleges that the present Petition should be dismissed for blatant forum-shopping. Even as petitioner had filed a Motion to Dismiss as regards the petition for forfeiture (docketed as Civil Case No. 0193) before the Sandiganbayan on the ground of the Sandiganbayan's alleged lack of jurisdiction, he filed the instant Petition raising exactly the same issue, even though the Motion to Dismiss in Civil Case No. 0193 is still pending resolution. Worse, it appears that the Motion to Dismiss and the instant Petition were filed on the same day, 17 November 2004.

Petitioner refutes these arguments in his Reply[31] and enunciates that the Sandiganbayan's criminal jurisdiction is separate and distinct from its civil jurisdiction, and that the Sandiganbayan's jurisdiction over forfeiture cases had been removed without subsequent amendments expressly restoring such civil jurisdiction. His thesis is that R.A. No. 1379 is a special law which is primarily civil and remedial in nature, the clear intent of which is to separate the prima facie determination in forfeiture proceedings from the litigation of the civil action. This intent is further demonstrated by Sec. 2 of R.A. No. 1379 which grants the authority to make an inquiry similar to a preliminary investigation being done by the City or Provincial Fiscal, and the authority to file a petition for forfeiture to the Solicitor General.

Petitioner also points out in his Reply[32] to the Comment of the Office of the Ombudsman, that the use of the phrase "violations of [R.A.] Nos. 3019 and 1379" in P.D. No. 1606, as amended, implies jurisdiction over cases which are principally criminal or penal in nature because the concept of "violation" of certain laws necessarily carries with it the concept of imposition of penalties for such violation. Hence, when reference was made to "violations of [R.A.] Nos. 3019 and 1379," the only jurisdiction that can supposedly be implied is criminal jurisdiction, not civil jurisdiction, thereby highlighting respondent Sandiganbayan's lack of jurisdiction over the "civil case" for forfeiture of ill-gotten wealth. Of course, petitioner does not rule out cases where the crime carries with it the corresponding civil liability such that when the criminal action is instituted, the civil action for enforcement of the civil liability is impliedly instituted with it, and the court having jurisdiction over the criminal action also acquires jurisdiction over the ancillary civil action. However, petitioner argues that the action for forfeiture subject of this case is not the ancillary civil action impliedly instituted with the criminal action. Rather, the petition for forfeiture is an independent civil action over which the Sandiganbayan has no jurisdiction. Petitioner points to P.D. No. 1606, as amended, which treats of independent civil actions only in the last paragraph of Sec. 4 thereof:

> Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned.

Petitioner however did not raise any argument to refute the charge of forum-shopping.

The issues for resolution are: (a) whether the Sandiganbayan has jurisdiction over petitions for forfeiture under R.A. No. 1379; (b) whether the Office of the Ombudsman has the authority to investigate, initiate and prosecute such petitions for forfeiture; and (c) whether petitioner is guilty of forum-shopping.

The petition is patently without merit. It should be dismissed.

The seminal decision of Republic v. Sandiganbayan[33] squarely rules on the issues raised by petitioner concerning the jurisdiction of the Sandiganbayan and the authority of the Office of the Ombudsman. After reviewing the legislative history of the Sandiganbayan and the Office of the Ombudsman, the Court therein resolved the question of jurisdiction by the Sandiganbayan over violations of R.A. No. 3019 and R.A. No. 1379. Originally, it was the Solicitor General who was authorized to initiate forfeiture proceedings before the then Court of First Instance of the city or province where the public officer or employee resides or holds office, pursuant to Sec. 2 of R.A. No. 1379. Upon the creation of the Sandiganbayan pursuant to P.D. No. 1486,[34] original and exclusive jurisdiction over such violations was vested in the said court.[35] P.D. No. 1606[36] was later issued expressly repealing P.D. No. 1486, as well as modifying the jurisdiction of the Sandiganbayan by removing its jurisdiction over civil actions brought in connection with crimes within the exclusive jurisdiction of said court.[37] Such civil actions removed from the jurisdiction of the Sandigabayan include those for restitution or reparation of damages, recovery of instruments and effects of the crime, civil actions under Articles 32 and 34 of the Civil Code, and forfeiture proceedings provided for under R.A. No. 1379.[38]

Subsequently, Batas Pambansa Blg. 129[39] abolished the concurrent jurisdiction of the Sandiganbayan and the regular courts and expanded the exclusive original jurisdiction of the Sandiganbayan over the offenses enumerated in Sec. 4 of P.D. No. 1606 to embrace all such offenses irrespective of the imposable penalty. Since this change resulted in the proliferation of the filing of cases before the Sandiganbayan where the offense charged is punishable by a penalty not higher than prision correccional or its equivalent, and such cases not being of a serious nature, P.D. No. 1606 was again amended by P.D. No. 1860[40] and eventually by P.D. No. 1861.[41]

On the foregoing premises alone, the Court in Republic v. Sandiganbayan, deduced that jurisdiction over violations of R.A. No. 3019 and 1379 is lodged with the Sandiganbayan.[42] It could not have taken into consideration R.A. No. 7975[43] and R.A. No. 8249[44] since both statutes which also amended the jurisdiction of the Sandiganbayan were not yet enacted at the time. The subsequent enactments only serve to buttress the conclusion that the Sandiganbayan indeed has jurisdiction over violations of R.A. No. 1379.

Under R.A. No. 8249, the Sandiganbayan is vested with exclusive original jurisdiction in all cases involving violations of R.A. No. 3019, R.A. No. 1379, and Chapter II, Sec. 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions whether in a permanent, acting or interim capacity, at the time of the commission of the offense: (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 989 (R.A. No. 6758), specifically including: (a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other city department heads; (b) City mayor, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads; (c) Officials of the diplomatic service occupying the position of consul and higher; (d) Philippine army and air force colonels, naval captains, and all officers of higher rank; (e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintended or higher; (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor; (g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations; (2) Members of Congress and officials thereof classified as Grade '27' and up under

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the Compensation and Position Classification Act of 1989; (3) Members of the judiciary without prejudice to the provisions of the Constitution; (4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and (5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.[45]

In the face of the prevailing jurisprudence and the present state of statutory law on the jurisdiction of the Sandiganbayan, petitioner's argument—that the Sandiganbayan has no jurisdiction over the petition for forfeiture it being "civil" in nature and the Sandiganbayan allegedly having no jurisdiction over civil actions—collapses completely.

The civil nature of an action for forfeiture was first recognized in Republic v. Sandiganbayan, thus: "[T]he rule is settled that forfeiture proceedings are actions in rem and, therefore, civil in nature."[46] Then, Almeda, Sr. v. Perez,[47] followed, holding that the proceedings under R.A. No. 1379 do not terminate in the imposition of a penalty but merely in the forfeiture of the properties illegally acquired in favor of the State. It noted that the procedure outlined in the law leading to forfeiture is that provided for in a civil action.[48]

However, the Court has had occasion to rule that forfeiture of illegally acquired property partakes the nature of a penalty. In Cabal v. Kapunan, Jr.,[49] the Court cited voluminous authorities in support of its declaration of the criminal or penal nature of forfeiture proceedings, viz:

> In a strict signification, a forfeiture is a divestiture of property without compensation, in consequence of a default or an offense, and the term is used in such a sense in this article. A forfeiture, as thus defined, is imposed by way of punishment not by the mere convention of the parties, but by the lawmaking power, to insure a prescribed course of conduct. It is a method deemed necessary by the legislature to restrain the commission of an offense and to aid in the prevention of such an offense. The effect of such a forfeiture is to transfer the title to the specific thing from the owner to the sovereign power. (23 Am. Jur. 599)
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> "In Black's Law Dictionary a 'forfeiture' is defined to be 'the incurring of a liability to pay a definite sum of money as the consequence of violating the provisions of some statute or refusal to comply with some requirement of law.' It may be said to be a penalty imposed for misconduct or breach of duty.'" (Com. vs. French, 114 S.W. 255.)
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> "Generally speaking, informations for the forfeiture of goods that seek no judgment of fine or imprisonment against any person are deemed to be civil proceedings in rem. Such proceedings are criminal in nature to the extent that where the person using the res illegally is the owner of rightful possessor of it the forfeiture proceeding is in the nature of a punishment. They have been held to be so far in the nature of
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> criminal proceedings that a general verdict on several counts in an information is upheld if one count is good. According to the authorities such proceedings, where the owner of the property appears, are so far considered as quasicriminal proceedings as to relieve the owner from being a witness against himself and to prevent the compulsory production of his books and papers. . . ." (23 Am. Jur. 612)
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> ....
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> "Proceedings for forfeitures are generally considered to be civil and in the nature of proceedings in rem. The statute providing that no judgment or other proceedings in civil causes shall be arrested or reversed for any defect or want of form is applicable to them. In some aspects, however, suits for penalties and forfeitures are of quasi-criminal nature and within the reason of criminal proceedings for all the purposes of . . . that portion of the Fifth Amendment which declares that no person shall be compelled in any criminal case to be a witness against himself. The proceeding is one against the owner, as well as against the goods; for it is his breach of

> the laws which has to be proved to establish the forfeiture and his property is sought to be forfeited." (15 Am. Jur., Sec. 104, p. 368)[50]

Cabal v. Kapunan modified the earlier ruling in Almeda, Sr. v. Perez.[51] The Court in Cabal held that the doctrine laid down in Almeda refers to the purely procedural aspect of the forfeiture proceedings and has no bearing on the substantial rights of respondents, particularly their constitutional right against self-incrimination.[52] This was reaffirmed and reiterated in Republic v. Agoncillo[53] and Katigbak v. Solicitor General.[54]

The Sandiganbayan is vested with jurisdiction over violations of R.A. No. 1379, entitled “An Act Declaring Forfeiture In Favor of the State Any Property Found to Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing For the Proceedings Therefor.” What acts would constitute a violation of such a law? A reading of R.A. No. 1379 establishes that it does not enumerate any prohibited acts the commission of which would necessitate the imposition of a penalty. Instead, it provides the procedure for forfeiture to be followed in case a public officer or employee has acquired during his incumbency an amount of property manifestly out of proportion to his salary as such public officer or employee and to his lawful income and income from legitimately acquired property.[55] Section 12[56] of the law provides a penalty but it is only imposed upon the public officer or employee who transfers or conveys the unlawfully acquired property; it does not penalize the officer or employee for making the unlawful acquisition. In effect, as observed in Almeda, Sr. v. Perez, it imposes the penalty of forfeiture of the properties unlawfully acquired upon the respondent public officer or employee.[57]

It is logically congruent, therefore, that violations of R.A. No. 1379 are placed under the jurisdiction of the Sandiganbayan, even though the proceeding is civil in nature, since the forfeiture of the illegally acquired property amounts to a penalty. The soundness of this reasoning becomes even more obvious when we consider that the respondent in such forfeiture proceedings is a public officer or employee and the violation of R.A. No. 1379 was committed during the respondent officer or employee’s incumbency and in relation to his office. This is in line with the purpose behind the creation of the Sandiganbayan as an anti-graft court—to address the urgent problem of dishonesty in public service.[58]

Following the same analysis, petitioner should therefore abandon his erroneous belief that the Sandiganbayan has jurisdiction only over petitions for forfeiture filed against President Marcos, his family and cronies.

We come then to the question of authority of the Office of the Ombudsman to investigate, file and

prosecute petitions for forfeiture under R.A. No. 1379. This was the main issue resolved in Republic v. Sandiganbayan.[59]

Under Sec. 2 of R.A. No. 1379, it was the Solicitor General who was authorized to initiate forfeiture proceedings before the then Courts of First Instance. P.D. No. Decree No. 1486 was later issued on 11 June 1978 vesting the Sandiganbayan with jurisdiction over R.A. No. 1379 forfeiture proceedings. Sec. 12 of P.D. No. 1486 gave the Chief Special Prosecutor the authority to file and prosecute forfeiture cases. This may be taken as an implied repeal by P.D. No. 1486 of the jurisdiction of the former Courts of First Instance and the authority of the Solicitor General to file a petition for forfeiture under Sec. 2 of R.A. No. 1379 by transferring said jurisdiction and authority to the Sandiganbayan and the Chief Special Prosecutor, respectively.[60] An implied repeal is one which takes place when a new law contains some provisions which are contrary to, but do not expressly repeal those of a former law.[61] As a rule, repeals by implication are not favored and will not be so declared unless it be manifest that the legislature so intended. Before such repeal is deemed to exist, it must be shown that the statutes or statutory provisions deal with the same subject matter and that the latter be inconsistent with the former. The language used in the latter statute must be such as to render it irreconcilable with what had been formerly enacted.

An inconsistency that falls short of that standard does not suffice. What is needed is a manifest indication of the legislative purpose to repeal.[62]

P.D. No. 1486 contains a repealing clause which provides that "[A]ny provision of law, order, rule or regulation inconsistent with the provisions of this Decree is hereby repealed or modified accordingly."[63] This is not an express repealing clause because it fails to identify or designate the statutes that are intended to be repealed. Rather, it is a clause which predicates the intended repeal upon the condition that a substantial conflict must be found in existing and prior laws.[64]

The conflict between P.D. No. 1486 and R.A. No. 1379 refers to the jurisdiction over the forfeiture proceeding and the authority to file the petition for forfeiture. As P.D. No. 1486 grants exclusive jurisdiction and authority to the Sandiganbayan and the Chief Special Prosecutor, the then Courts of First Instance and Solicitor General cannot exercise concurrent jurisdiction or authority over such cases. Hence, P.D. No. 1486 and Sec. 2, R.A. No. 1379 are inconsistent with each other and the former should be deemed to have repealed the latter.

On 11 June 1978, the same day that P.D. No. 1486 was enacted, P.D. No. 1487[65] creating the Office of the Ombudsman (then known as the Tanodbayan) was passed. The Tanodbayan initially had no authority to prosecute cases falling within the jurisdiction of the Sandiganbayan as provided in Sec. 4 of P.D. No. 1486, such jurisdiction being vested in the Chief Special Prosecutor as earlier mentioned.

On 10 December 1978, P.D. No. 1606 was enacted expressly repealing P.D. No. 1486. Issued on the same date was P.D. No. 1607[66] which amended the powers of the Tanodbayan to investigate administrative complaints[67] and created the Office of the Chief Special Prosecutor.[68] P.D. No. 1607 provided said Office of the Chief Special Prosecutor with exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan, file informations therefor, and direct and control the prosecution of said cases.[69] P.D. No. 1607 also removed from the Chief Special Prosecutor the authority to file actions for forfeiture under R.A. No. 1379.[70]

The rule is that when a law which expressly repeals a prior law is itself repealed, the law first repealed shall not be thereby revived unless expressly so provided. From this it may fairly be inferred that the old rule continues in force where a law which repeals a prior law, not expressly but by implication, is itself repealed; and that in such cases the repeal of the repealing law revives the prior law, unless the language of the repealing statute provides otherwise.[71] Hence, the repeal of P.D. No. 1486 by P.D. No. 1606 necessarily revived the authority of the Solicitor General to file a petition for forfeiture under R.A. No. 1379, but not the jurisdiction of the Courts of First Instance over the case nor the authority of the Provincial or City Fiscals (now Prosecutors) to conduct the preliminary investigation therefore, since said powers at that time remained in the Sandiganbayan and the Chief Special Prosecutor.[72]

The Tanodbayan's authority was further expanded by P.D. No. 1630[73] issued on 18 July 1990. Among other things, the Tanodbayan was given the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan, to file informations therefore and to direct and control the prosecution of said cases.[74] The power to conduct the necessary investigation and to file and prosecute the corresponding criminal and administrative cases before the Sandiganbayan or the proper court or administrative agency against any public personnel who has acted in a manner warranting criminal and disciplinary action or proceedings was also transferred from the Chief Special Prosecutor to the Tanodbayan.[75]

Thereafter, P.D. No. 1606 was amended by P.D. Nos. 1860 and 1861[76] which granted the Tanodbayan the same authority. The present Constitution was subsequently ratified and then the Tanodbayan became known as the Office of the Special Prosecutor which continued to exercise its powers except those conferred on the Office of

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the Ombudsman created under the Constitution.[77] The Office of the Ombudsman was officially created under R.A. No. 6770.[78]

At present, the powers of the Ombudsman, as defined by R.A. No. 6770, corollary to Sec. 13, Art. XI of the Constitution, include the authority, among others, to:

> (1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;[79]
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> ...
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> (11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after 25 February 1986 and the prosecution of the parties involved therein.[80]

Ostensibly, it is the Ombudsman who should file the petition for forfeiture under R.A. No. 1379. However, the Ombudsman's exercise of the correlative powers to investigate and initiate the proper action for recovery of ill-gotten and/or unexplained wealth is restricted only to cases for the recovery of ill-gotten and/or unexplained wealth amassed after 25 February 1986.[81] As regards such wealth accumulated on or before said date, the Ombudsman is without authority to commence before the Sandiganbayan such forfeiture action—since the authority to file forfeiture proceedings on or before 25 February 1986 belongs to the Solicitor General—although he has the authority to investigate such cases for forfeiture even before 25 February 1986, pursuant to the Ombudsman's general investigatory power under Sec. 15 (1) of R.A. No. 6770.[82]

It is obvious then that respondent Office of the Ombudsman acted well within its authority in conducting the investigation of petitioner's illegally acquired assets and in filing the petition for forfeiture against him. The contention that the procedural requirements under Sec. 2 of R.A. No. 1379 were not complied with no longer deserve consideration in view of the foregoing discussion.

Now to the charge that petitioner is guilty of forum-shopping. Forum-shopping is manifest whenever a party "repetitively avail[s] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court."[83] It has also been defined as "an act of a party against whom an adverse judgment has been rendered in one forum of seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of certiorari, or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition."[84] Considered a pernicious evil, it adversely affects the efficient administration of justice since it clogs the court dockets, unduly burdens the financial and human resources of the judiciary, and trifles with and mocks judicial processes.[85] Willful and deliberate forum-shopping is a ground for summary dismissal of the complaint or initiatory pleading with prejudice and constitutes direct contempt of court, as well as a cause for administrative sanctions, which may both be resolved and imposed in the same case where the forum-shopping is found.[86]

There is ample reason to hold that petitioner is guilty of forum-shopping. The present petition was filed accompanied by the requisite Verification and Certification Against Forum Shopping[87] in which petitioner made the following representation:

> ....

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> 3.] As Petitioner, I have not heretofore commenced any other action or proceeding in the Supreme Court, the Court of Appeals, or any other tribunal or agency, involving the same issues as that in the above-captioned case.
>
> 4.] To the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency.
>
> 5.] If I should hereafter learn that such proceeding has been commenced or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I undertake to report that fact to this Honorable Court within five (5) days from knowledge thereof.

However, petitioner failed to inform the Court that he had filed a Motion to Dismiss[88] in relation to the petition for forfeiture before the Sandiganbayan. The existence of this motion was only brought to the attention of this Court by respondent Office of the Ombudsman in its Comment. A scrutiny of the Motion to Dismiss reveals that petitioner raised substantially the same issues and prayed for the same reliefs therein as it has in the instant petition. In fact, the Arguments and Discussion[89] in the Petition of petitioner's thesis that the Sandiganbayan has no jurisdiction over separate civil actions for forfeiture of unlawfully acquired properties appears to be wholly lifted from the Motion to Dismiss. The only difference between the two is that in the Petition, petitioner raises the ground of failure of the petition for forfeiture to comply with the procedural requirements of R.A. No. 1379, and petitioner prays for the annulment of the Sandiganbayan's Resolution dated 29 October 2004 and Writ of Preliminary Attachment dated 2 November 2004. Nevertheless, these differences are only superficial. Both Petition and Motion to Dismiss have the same intent of dismissing the case for forfeiture filed against petitioner, his wife and their sons. It is undeniable that petitioner had failed to fulfill his undertaking. This is incontestably forum-shopping which is reason enough to dismiss the petition outright, without prejudice to the taking of appropriate action against the counsel and party concerned.[90] The brazenness of this attempt at forum-shopping is even demonstrated by the fact that both the Petition and Motion to Dismiss were filed on the same day, 17 November 2004. Petitioner should have waited for the resolution of his Motion to Dismiss before resorting to the petition at hand.

Petitioner's counsel of record, Atty. Constantino B. De Jesus, needs to be reminded that his primary duty is to assist the courts in the administration of justice. As an officer of the court, his duties to the court are more significant and important than his obligations to his clients. Any conduct which tends to delay, impede or obstruct the administration thereof contravenes his oath of office.[91] Atty. De Jesus failed to accord due regard, as he must, the tenets of the legal profession and the mission of our courts of justice. For this, he should be penalized. Penalties imposed upon lawyers who engaged in forum-shopping range from severe censure to suspension from the practice of law.[92] In the instant case, we deem the imposition of a fine in the amount of P20,000.00 to be sufficient to make Atty. De Jesus realize the seriousness of his naked abuse of the judicial process.

WHEREFORE, in view of the foregoing, the Petition is DISMISSED. Atty. Constantino B. De Jesus is DECLARED in CONTEMPT of this Court and meted a fine of Twenty Thousand Pesos (P20,000.00) to be paid within ten (10) days from the finality of this Decision. Costs against petitioner.

SO ORDERED.

Davide, Jr.,C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Chico-Nazario, and Garcia, JJ., concur.

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[1]Approved by Associate Justices Greory S. Ong, Jose R. Hernandez, and Rodolfo A. Ponferrada of the Fourth

Division. Rollo, pp. 35-39.

[2]Id. at 41-42.

[3]Code of Conduct of Ethical Standards for Public Officials and Employees; 20 February 1989.

[4]An Act Declaring Forfeiture In Favor of the State Any Property Found to Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing for the Proceedings Therefor; 18 June 1955.

[5]Based on the same Complaint, Case No. OMB-P-A-04-093501 for Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service was also filed against petitioner. Petitioner further avers that on 21 October 2004, Atty. Roxas filed another complaint against him with the same respondent Office of the Ombudsman, charging dishonesty, conduct unbecoming of a public officer under E.O. No. 292, perjury under Art. 183 of the Revised Penal Code and violation of R.A. No. 3019. Based on this complaint, Case No. OMB-P-C-04-1230-J for Violation of Art. 183 of the Revised Penal Code and Violation of R.A. No. 3019 was filed against petitioner, his wife, and three sons. Case No. OMB-P-A-04-1030-J was filed against petitioner alone for Dishonesty, Grave Misconduct, and Conduct Unbecoming of a Public Officer under E.O. 292. In addition, four Informations for perjury were also filed with public respondent Sandiganbayan against petitioner. Rollo, pp. 9-12.

[6]Id. at 59-87.

[7]Id. at 61.

[8]Id. at 915-938. At the time of filing of respondent Office of the Ombudsman's Comment on 7 December 2004, the Motion to Dismiss was still pending. Id. at 581. At the time of the promulgation of this decision, it could not be determined from the records if the Motion to Dismiss had already been resolved.

[9]Sec. 2. Filing of petition.—Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed prima facie to have been unlawfully acquired. The Solicitor General, upon complaint by any taxpayer to the city or provincial fiscal who shall conduct a previous inquiry similar to preliminary investigations in criminal cases and shall certify to the Solicitor General that there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof, shall file, in the name and on behalf of the Republic of the Philippines, in the Court of First Instance of the city or province where said public officer or employee resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: Provided, That no such petition shall be filed within one year before any general election or within three months before any special election.

....

[10]Revising Presidential Decree No. 1486 Creating A Special Court to be Known As "Sandiganbayan" and For Other Purposes; 10 December 1978.

[11]Defining the Jurisdiction Over Cases Involving the Ill-gotten Wealth of Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Members of the Immediate Family, Close Relatives, Subordinates, Close and/or Business Associates, Dummies, Agents and Nominees; 7 May 1986.

[12]Amending Executive Order No. 14; 18 August 1986.

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[13]Rollo, pp. 13-27.

[14]See note 9.

[15]Rollo, p. 29.

[16]Dated 24 January 2005. Rollo, pp. 1483-1498.

[17]G.R. No. 90529, 16 August 1991, 200 SCRA 667.

[18]Rollo, p. 1489, citing Republic v. Sandiganbayan, id. at 676.

[19]Art. XI, Sec. 4: “The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.”

The 1973 Constitution, Art. XIII, Sec. 5, provided for the creation of a special court known as the Sandiganbayan and defined the jurisdiction thereof. It states: “The National Assembly shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law."

[20]“....c. Civil and Criminal cases filed pursuant to and in connection with Executive Orders Nos. 1, 2, 14, and 14-A, issued in 1986.”

[21]Rollo, p. 1493, citing Almeda, Sr. v. Perez, 5 SCRA 970 (1962); Cabal v. Kapunan, 6 SCRA 1059 (1962); Republic v. Agoncillo, 40 SCRA 579 (1971); and Republic v. Sandiganbayan, supra.

[22]Id. at 564-584.

[23]An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, Amending for that Purpose Presidential Decree No. 1606, as Amended; 30 March 1995.

[24]An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as Amended, Providing Funds Therefor, and for Other Purposes; 5 February 1997.

[25]Id. at 572-573.

[26]Constitution, Art. XI, Sec. 13, par. (1).

[27]The Ombudsman Act of 1989; 17 November 1989.

[28]“Sec. 15. Powers, Functions and Duties.—The Office of the Ombudsman shall have the following powers, functions and duties: ...(11) Investigate and initiate the proper action for the recovery of ill-gotten wealth and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.”

[29]Rollo, pp. 573-577.

[30]Id. at 577-579.

[31]Id. at 1470 to 1480.

[32]Id. at 1511-1518.

[33]Supra note 17.

[34]Creating a Special Court to be Known as “Sandiganbayan” and for Other Purposes; 11 June 1978.

[35]Id., Sec. 4, which reads:

> "SECTION 4. Jurisdiction.—Except as herein provided, the Sandiganbayan shall have original and exclusive jurisdiction to try and decide:
>
> (a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379;
>
> (b) Crimes committed by public officers or employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code;
>
> (c) Other crimes or offenses committed by public officers or employees including those employed in government-owned or controlled corporations in relation to their office; Provided, that, in case private individuals are accused as principals, accomplices or accessories in the commission of the crimes hereinabove mentioned, they shall be tried jointly with the public officers or employees concerned.
>
> Where the accused is charged of an offense in relation to his office and the evidence is insufficient to establish the offense so charged, he may nevertheless be convicted and sentenced for the offense included in that which is charged.
>
> (d) Civil suits brought in connection with the aforementioned crimes for restitution or reparation of damages, recovery of the instruments and effects of the crimes, or forfeiture proceedings provided for under Republic Act No. 1379;
>
> (e) Civil actions brought under Articles 32 and 34 of the Civil Code.
>
> Exception from the foregoing provisions during the period of material law are criminal cases against officers and members of the Armed Forces of the Philippines, and all others who fall under the exclusive jurisdiction of the military tribunals."

[36]See note 10.

[37]Sec. 4 of P.D. No. 1606 reads:

> "SECTION 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;
>
> (b) Crimes committed by public officers and employees including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and
>
> (c) Other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office.
>
> The jurisdiction herein conferred shall be original and exclusive if the offense charged is punishable by a penalty higher than prision correccional, or its equivalent, except as herein provided; in other offenses, it shall be concurrent with the regular courts.
>
> In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.
>
> Where an accused is tried for any of the above offenses and the evidence is insufficient to establish the offense charged, he may nevertheless be convicted and sentenced for the offense proved, included in that which is

charged.

Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability arising from the offense charged shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by, the Sandiganbayan, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such action shall be recognized; Provided, however, that, in cases within the exclusive jurisdiction of the Sandiganbayan, where the civil action had theretofore been filed separately with a regular court but judgment therein has not yet been rendered and the criminal case is hereafter filed with the Sandiganbayan, said civil action shall be transferred to the Sandiganbayan for consolidation and joint determination with the criminal action, otherwise, the criminal action may no longer be filed with the Sandiganbayan, its exclusive jurisdiction over the same notwithstanding, but may be filed and prosecuted only in the regular courts of competent jurisdiction; Provided, further, that, in cases within the concurrent jurisdiction of the Sandiganbayan and the regular courts, where either the criminal or civil action is first filed with the regular courts, the corresponding civil or criminal action, as the case may be, shall only be filed with the regular courts of competent jurisdiction.

Excepted from the foregoing provisions, during martial law, are criminal cases against officers and members of the armed forces in the active service.

[38]Id. See also Republic v. Sandiganabayan, supra note 17 at 675.

[39]The Judiciary Reorganization Act of 1980; 14 August 1981. Sec. 20 thereof provides: “Sec. 20. Jurisdiction in criminal cases. - Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter.”

[40]Amending the Pertinent Provisions of Presidential Decree No. 1606 and Batas Pambansa Blg. 129 Relative to the Jurisdiction of the Sandiganbayan and for Other Purposes; 14 January 1983. Sec. 1 thereof reads:

“SECTION 1. Section 4 of Presidential Decree No. 1606 is hereby amended to read as follows:

"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;

"(b) Crimes committed by public officers and employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and

"(c) Other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office.

"The jurisdiction herein conferred shall be original and exclusive if the offense charged is punishable by a penalty higher than prision correccional or its equivalent. In all other offenses, original and exclusive jurisdiction shall vest in the appropriate court in accordance with the provisions of Batas Pambansa Blg. 129.

"In case private individuals are charged as co-principals, accomplices or accessories together with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.

"Where an accused is tried of any of the above offenses and the evidence is insufficient to establish the offense

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charged, he may nevertheless be convicted of and sentenced for the offense proved, included in that which is charged.

"Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability arising from the offense charged shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by, the Sandiganbayan or the appropriate court. The filing of the criminal action shall be deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized; PROVIDED, however, That, in cases within the exclusive original jurisdiction of the Sandiganbayan, where the civil action had been filed separately with a regular court but judgment therein has not been rendered and the criminal case is hereafter filed with the Sandiganbayan, said civil action shall be transferred to the Sandiganbayan for consolidation and joint determination with the criminal action, otherwise, the criminal action may no longer be filed with the Sandiganbayan, its exclusive jurisdiction over the same notwithstanding, but may be filed and prosecuted only in the regular courts of competent jurisdiction."

[41]Amending the Pertinent Provisions of Presidential Decree No. 1606 and Batas Pambansa Blg. 129 Relative to the Jurisdiction of the Sandiganbayan and for Other Purposes; 23 March 1983. Section 1 thereof states:

SECTION 1. Section 4 of Presidential Decree No. 1606 is hereby amended to read as follows:

"Sec. 4. Jurisdiction. — The Sandiganbayan shall exercise:

"(a) Exclusive original jurisdiction in all cases involving:

(1) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2) Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prision correccional or imprisonment for six (6) years, or a fine of P6,000.00: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prision correccional or imprisonment for six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court.

"(b) Exclusive appellate jurisdiction:

(1) On appeal, from the final judgments, resolutions or orders of the Regional Trial Courts in cases originally decided by them in their respective territorial jurisdiction.

(2) By petition for review, from the final judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction.

"The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules the Supreme Court has promulgated and may hereinafter promulgate, relative to appeals/petitions for review to the Intermediate Appellate Court shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan, the Office of the Tanodbayan shall represent the People of the Philippines.

"In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.

"Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability arising from the offense charged shall at all times

> be simultaneously instituted with, and jointly determined in the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: PROVIDED, HOWEVER, that where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case maybe, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be considered abandoned."

[42]Republic v. Sandiganbayan, supra note 17 at 674-676.

[43]See note 23.

[44]See note 24.

[45]R.A. No. 8249, Sec. 4.

[46]Republic v. Sandiganbayan, supra note 17 at 681.

[47]116 Phil. 120 (1962), cited in Republic v. Sandiganbayan, Ferdinand E. Marcos, et. al., G.R. No. 152154, 18 November 2003, 416 SCRA 133, 142.

[48]Ibid.

[49]116 Phil. 1361 (1962).

[50]Id. at 1366-1367.

[51]See note 47.

[52]Id. at 1369.

[53]148-B Phil. 366 (1971).

[54]G.R. No. 19328, 22 December 1989, 180 SCRA 540.

[55]See Sec. 2, R.A. 1379, supra note 9.

[56]“SECTION 12. Penalties.—Any public officer or employee who shall, after the effective date of this Act, transfer or convey any unlawfully acquired property shall be repressed with imprisonment for a term not exceeding five years, or a fine not exceeding ten thousand pesos, or both such imprisonment and fine. The same repression shall be imposed upon any person who shall knowingly accept such transfer or conveyance.”

[57]Supra note 47 at 126.

[58]See 1973 Constitution, Art. XIII, Sec. 5, supra note 19. See also Nuñez v. Sandiganbayan, 197 Phil. 407, 420-421 (1982).

[59]Supra note 17.

[60]Republic v. Sandiganbayan, supra note 17 at 683.

[61]School District No. 45 v. Board of Country Comira, 141 Kan. 108, cited in R. Martin, Statutory Construction (1979) 171.

[62]Villegas v. Subido, 148-B Phil. 668, 675-676 (1971).

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[63]P.D. No. 1486, Sec. 16.

[64]Iloilo Palay and Corn Planters Assoc., Inc. v. Feliciano, 121 Phil. 358 (1965).

[65]Creating The Office Of The Ombudsman, To Be Known As Tanodbayan.

[66]Revising Presidential Decree No. 1487 Creating The Office Of The Ombudsman, To Be Known As Tanodbayan.

[67]"Sec. 10. Powers. –The Tanodbayan shall have the following powers:

(a) He may investigate, on complaint by any person or on his own motion or initiative, any administrative act whether amounting to any criminal offense or not of any administrative agency including any government-owned or controlled corporation;

(b) He shall prescribe the methods by which complaints are to be made, received, and acted upon; he may determine the scope and manner of investigations to be made; and, subject to the requirements of this Decree, he may determine the form, frequency, and distribution of his conclusions and recommendations;

(c) He may request and shall be given by each administrative agency the assistance and information he deems necessary to the discharge of his responsibilities; he may examine the records and documents of all administrative agencies; and he may enter and inspect premises within any administrative agency's control, provided, however, that where the President in writing certifies that such information, examination or inspection might prejudice the national interest, the Tanodbayan shall desist. All information so obtained shall be confidential, unless the President, in the interest of public service, decides otherwise;

(d) He may issue a subpoena to compel any person to appear, give sworn to testimony, or produce documentary or other evidence the Tanodbayan deems relevant to a matter under his inquiry;

(e) He may undertake, participate in, cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act; if he believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies."

[68]"Sec. 17. Office of the Chief Special Prosecutor. –There is hereby created in the Office of the Tanodbayan an Office of the Chief Special Prosecutor composed of a Chief Special Prosecutor, an Assistant Chief Special Prosecutor, and nine (9) Special Prosecutors, who shall have the same qualifications as provincial and city fiscals and who shall be appointed by the President; ....

The Chief Special Prosecutor, the Assistant Chief Special Prosecutor, and the Special Prosecutors shall have the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan; to file informations thereof and to direct and control the prosecution of said cases therein; ....

...

The Chief Special Prosecutor, Assistant State Prosecutor, Special Prosecutor and those designated to assist them as herein provided for shall be under the control and supervision of the Tanodbayan and their resolutions and actions shall not be subject to review by any administrative agency."

....

Sec. 19. Prosecution of Public Personnel or Other person.—If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary action or proceedings, he shall cause him to be investigated by the Office of the Chief Special Prosecutor who shall file and

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prosecute the corresponding criminal or administrative case before the Sandiganbayan or the proper court or before the proper administrative agency. In case of failure of justice, the Sandiganbayan shall make the appropriate recommendations to the administrative agency concerned."

[69]Id.

[70]Id. On the premise that a forfeiture proceeding under R.A. No. 1379 is a civil action in rem.

[71]United States v. Soliman, 36 Phil. 5, 10-11 (1917), cited in Republic v. Sandiganbayan, supra note 17 at 683-684.

[72]Republic v. Sandiganbayan, supra note 17 at 684.

[73]Further Revising Presidential Decree No. 1487, As Revised By Presidential Decree No. 1607, Creating The Office Of The Tanodbayan.

[74]P.D. No. 1630, Sec. 17: "Sec. 17. Investigation and Prosecution of Cases. –The Office of the Tanodbayan shall have the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan; to file information therefor and to direct and control the prosecution of said cases. The Tanodbayan may utilize the personnel of his office and/or with the approval of the President, designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist him in the investigation and prosecution of said cases. Those designated or deputized to assist him as herein provided shall be under his supervision and control....

[75]"Sec. 18. Prosecution of Public Personnel or Other Person.—If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary action or proceedings, he shall conduct the necessary investigation and shall file and prosecute the corresponding criminal or administrative case before the Sandiganbayan or the proper court or before the proper administrative agency."

[76]See notes 38 and 39.

[77]Art. XI, Sec. 7.

[78]17 November 1989.

[79]R.A. No. 6770, Sec. 15(1).

[80]Id., Sec. 15 (11).

[81]Id.

[82]Republic v. Sandiganbayan, supra note 17 at 682-683.

[83]Gatmaytan v. Court of Appeals, 335 Phil. 155, 167 (1997).

[84]Sto. Tomas University Hospital v. Surla, 355 Phil. 804, 813 (1998).

[85]Progressive Development Corporation, Inc. v. Court of Appeals, 361 Phil. 566, 584 (1999).

[86]Rule 7, Sec. 5, Revised Rules of Civil Procedure; Top Rate Construction and General Services, Inc. v. Paxton Development Corporation, G.R. No. 151081, 11 September 2003, 410 SCRA 604, 620-621.

[87]Rollo, p. 32.

[88]See note 8.

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[89]Rollo, pp. 13- 28.

[90]Gatmaytan v. CA, supra note 83.

[91]Top Rate Construction and General Services, Inc. v. Paxton Development Corporation, supra note 86 at 621.

[92]Benguet Electrical Cooperative, Inc., v. National Electrification Administration, G.R. No. 93924, 23 January 1991, 193 SCRA 250; Vda. de Tolentino v. De Guzman, G.R. No. 61756, 19 April 1989, 171 SCRA 555; E. Razon, Inc. v. Philippine Ports Authority, G.R. No. 75197, 31 July 1986 [unreported Resolution].

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