

**LUCIO C. TAN, CARMEN KHAO TAN, FLORENCIO T. SANTOS,
NATIVIDAD P. SANTOS, DOMINGO CHUA, TAN HUI NEE, MARIANO
TAN ENG LIAN, ESTATE OF BENITO TAN KEE HION, (REPRESENTED
BY TARCIANA...**

G.R. No. 84195. December 11, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

We give DUE COURSE to this petition filed by the petitioners. We also consider the comment filed by the Solicitor General as the Government's answer.

The petitioners, twenty-two in number, assail the action of the Sandiganbayan, denying their "Motion for a More Definite Statement or a Bill of Particulars" directed against the Complaint filed by the Presidential Commission on Good Government (PCGG).

The Complaint, dated July 17, 1987, was filed in July, 1987, by the PCGG against the twenty-two petitioners, together with the late Ferdinand Marcos, Mrs. Imelda Marcos, Don Ferry, and Federico Moreno. The same prayed for judgment as follows:

WHEREFORE, it is respectfully prayed that this Honorable Court render judgment adjudging and ordering Defendants as follows:

29. AS TO THE FIRST, SECOND AND THIRD CAUSES OF ACTION - To return and reconvey to Plaintiff all funds and other property impressed with constructive trust in favor of Plaintiff and the Filipino people, as well as funds and other property acquired by Defendants by abuse of right and power and through unjust enrichment; or alternatively to jointly and severally pay Plaintiff the value thereof with interest thereon from the date of unlawful acquisition until full payment.

30. AS TO THE FOURTH CAUSE OF ACTION - To show to the satisfaction of this Honorable Court that they have lawfully acquired all such funds, assets and property which are in excess of their legal net income, and for this Honorable Court to decree that the Defendants are under obligation to account to Plaintiff with respect to all legal or beneficial interests in funds, properties and assets of whatever kind and wherever located in excess of the lawful earnings or lawful income from legitimately acquired property.

31. AS TO THE FIRST, SECOND, THIRD, FOURTH, AND FIFTH CAUSES OF ACTION - To solidarily pay Plaintiff:

- a) Actual Damages in such amount as are proven during the trial;
- b) Moral Damages in the amount of FIFTY BILLION (P50,000,000,000.00) PESOS;
- c) Temperate Damages in such amount as may be determined by the Honorable Court in the exercise of its sound

discretion;

d) Nominal Damages in such amount as may be determined by the Honorable Court in the exercise of its sound discretion;

e) Exemplary Damages in the amount of ONE BILLION (P1,000,000,000.00) PESOS;

f) Attorney's Fees in such amount to be proven during the trial;

g) Litigation expenses in such amount as may be proven during the trial;

h) Treble judicial costs.

Plaintiff further prays for such further relief as may appear to the Honorable Court to be just and equitable under the premises.[1]

Subsequently, the PCGG filed a "Complaint Expanded per Court-Approved Plaintiff's Manifestation/Motion dated December 8, 1987." That notwithstanding, the twenty-two petitioners (the Marcoses never joined them, neither did Don Ferry nor Federico Moreno) moved, as indicated above, for a bill of particulars.

The pertinent portions of the Complaint for which a bill of particulars is sought, and insofar as material to this petition, are hereinbelow reproduced as follows:

VI

CAUSES OF ACTION

16. First Cause of Action: ABUSE OF RIGHT AND POWER. -- (a) Defendants, in perpetrating the unlawful acts described above, committed abuse of right and power which caused untold misery, sufferings and damages to Plaintiff. Defendants violated, among others, Articles 19, 20, and 21 of the Civil Code of the Philippines;

(b) As a result of the foregoing acts, Defendants acquired title to and beneficial interest in funds and other property and concealed such title, funds and interest through the use of relatives, business associates, nominees, agents, or dummies. Defendants are, therefore, jointly and severally liable to Plaintiff to return and reconvey all such funds and other property unlawfully acquired by them or alternatively, to pay Plaintiff, jointly and severally by way of indemnity, the damage caused to Plaintiff equivalent to the amount of such funds or the value of other property not returned or restored to Plaintiff, plus interest thereon from the date of unlawful acquisition until full payment thereof.

17. Second Cause of Action: -- -UNJUST ENRICHMENT -- Defendants illegally accumulated funds and other property in violation of the laws of the Philippines and in breach of their official functions and fiduciary obligations. Defendants, therefore, have unjustly enriched themselves to the grave and irreparable damage and prejudice of Plaintiff. Defendants have an obligation at law, independently of breach of trust and abuse of right and power and, as an alternative, are jointly and severally liable to return to Plaintiff such funds and other property with which Defendants, in gross evident bad faith, have unjustly enriched themselves or, in default thereof, restore to Plaintiff the amount of such funds and the value of the other property including those which may have been wasted, and/or lost with interest thereon from the date of unlawful acquisition until full payment thereof.

18. Third Cause of Action: -- BREACH OF PUBLIC TRUST -- A public office is a public trust. By committing all the acts described above, Defendants, repeatedly breached public trust and the law, making them liable jointly and severally to Plaintiff. The funds and other property acquired by Defendants following, or as a result of, their

breach of public trust, are deemed to have been acquired for the benefit of Plaintiff and are, therefore, impressed with constructive trust in favor of Plaintiff and the Filipino people. Consequently, Defendants are solidarily liable to restore or reconvey to Plaintiff all such funds and property thus impressed with constructive trust for the benefit of Plaintiff and the Filipino people.

19. Fourth Cause of Action: -- -ACCOUNTING -- The Commission, acting pursuant to the provisions of applicable law, respectfully maintain that Defendants, acting singly or collectively, in unlawful concert with one another, acquired funds, assets and property during the incumbency of Defendant public officers, or while acting in unlawful concert with public officers, manifestly out of proportion to their salaries, to their other lawful income and income from legitimately acquired property. Consequently, they are required to show to the satisfaction of this Honorable Court that they have lawfully acquired all such funds, assets and property which are in excess of their legal net income, and for this Honorable Court to decree that the Defendants are under obligation to account to Plaintiff with respect to all legal or beneficial interests in funds, properties and assets of whatever kind and wherever located in excess of the lawful earnings or lawful income from legitimately acquired property.

20. Fifth Cause of Action -- -LIABILITY FOR DAMAGES -- (a) By reason of the unlawful acts set forth above, Plaintiff and the Filipino people have suffered actual damages in an amount representing the pecuniary loss sustained by the latter as a result of Defendants unlawful acts, plus expenses which Plaintiff has been compelled to incur and shall continue to incur in its effort to recover Defendants' ill-gotten wealth all over the world, Defendants are, therefore, jointly and severally liable to Plaintiff for actual damages and to reimburse expenses for recovery of Defendants' ill-gotten wealth all over the world in such amounts as are proven during the trial.

(b) As a result of Defendants' un-lawful, malicious, immoral and wanton acts described above, Plaintiff and the Filipino people had, for more than twenty long years, painfully endured and suffered and continue to endure and suffer anguish, fright, sleepless nights, serious anxiety, wounded feelings and moral shock, as well as besmirched reputation and social humiliation before the international community, for which Defendants are jointly and severally liable to Plaintiff and the Filipino people for moral damages;

(c) In addition, Plaintiff and the Filipino people are entitled to temperate damages for their sufferings which, by their very nature, are incapable of pecuniary estimation but which this Honorable Court may determine in the exercise of its sound discretion;

(d) Defendants, by reason of the above described unlawful acts, have violated and invaded the inalienable right of Plaintiff and the Filipino people to a fair and decent way of life befitting a Nation with rich natural and human resources. This basic and fundamental right of Plaintiff and the Filipino people should be recognized and vindicated by awarding nominal damages in an amount to be determined by the Honorable Court in the exercise of its sound discretion.

(e) By way of example and correction for the public good and in order to ensure that Defendants' unlawful, malicious, immoral and wanton acts are not repeated, said Defendants are solidarily liable to Plaintiff for exemplary damages.[2]

On April 14, 1988, the respondent Court promulgated a Resolution denying the petitioners' motion. On July 13, 1988, it issued a second one denying reconsideration.

The petitioners submit, in a nutshell, that the PCGG's averments are made up of bare generalizations, presumptuous conclusions of fact and law, and plain speculations, for which a motion for a more definite statement or for a bill of particulars allegedly lies.

The Sandiganbayan's dispositions are as follows:

From the foregoing it can readily be seen that We have set out fully and in detail the particulars and specifications being sought by defendants-movants in order to show in a much broader perspective the factual basis relied upon to justify the relief sought in their motion. A careful and meticulous examination thereof, as well as the pertinent portions of the Expanded Complaint (Pp. 673-692, *Ibid.*) readily shows that Paragraphs 1 to 9, inclusive, fall under the headings "Nature Of The Action," "The Parties" and "Averments Common To All Causes of Action" hence, they do not constitute an inherent or integral part of the causes of action, similarly as in Paragraphs 10 to 13 inclusive, which fall under the heading "IV. General Averments Of Defendants' Illegal Acts". Hence, as aptly pointed out by plaintiff, they serve merely to present the factual backdrop or scenario leading to Paragraphs 14 to 15, inclusive which set out in detail the "Specific Averments Of Defendants' Illegal Acts" and to which latter paragraphs the motion may, therefore, be properly addressed.

Correlating the specific averments in Paragraphs 14 to 15, inclusive, to the five (5) Causes of Action described in Paragraphs 16 to 20, inclusive, We are of the considered opinion that Paragraphs 14 to 15, inclusive, of the Expanded Complaint had already supplied or provided the specifications and particulars theretofore lacking in the original Complaint. Therein, defendants-movants herein, particularly defendants Lucio C. Tan, Willy Co, Florencio T. Santos, Mariano Tan Eng Lian, Domingo Chua and Mariano Khoo, together with their co-defendants-movants, are alleged to have actively collaborated and willingly participated in multi-varied and inter-related business/corporate/individual acts and practices involving the General Bank and Trust Company (now Allied Banking Corporation), the Central Bank of the Philippines, the Asia Brewery, Inc., Fortune Tobacco Co., Shareholdings, Inc., Foremost Farms, Inc., Himmel Industries, Inc., Grandspan Development Corporation, Silangan, Inc., Maranaw Hotel and Resorts, Corp., Sipalay Trading Corporation, The Development Corporation of the Philippines, Northern Redrying Co., Inc. and the Virginia Tobacco Administration. The nature, scope and consequences of such acts and practices, insofar as they involve or affect the operations of the above-named firms, entities or corporations, again insofar as they constitute alleged violations of plaintiff's rights and interests, are outlined in vivid detail, complete with names, dates, facts and figures in Paragraph 14 (a) (1-3), (b), (c), (d), (e) (1-5), (f), (g) and (h). The specific roles and participation of defendants-movants are likewise averred in the particular sub-paragraphs which relate to the firms, entities and corporations affected. In short, each and every defendant-movant can clearly see where, how and why he or she is being held liable or responsible for the particular act or acts attributed to them, singly or collectively.[3]

We sustain the respondent, the Sandiganbayan.

Under section 1, of Rule 12, of the Rules of Court, *supra*, thus:

SECTION 1. Motion for bill of particulars. -- Before responding to a pleading or, if no responsive pleading is permitted by these rules, within ten (10) days after service of the pleading upon him, a party may move for a more definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading or to prepare for trial. Such motion shall point out the defects complained of and the details desired.

A bill or particulars becomes part of the pleadings once accepted, thus:

(a) Bill a part of pleading. -- A bill of particulars becomes a part of the pleading which it supplements. It shall be governed by the rules of pleading and the original shall be filed with the clerk of the court.[4]

A seasonable motion therefor interrupts the period within which to answer:

(b) Stay of period to file responsive pleading. -- After service of the bill of particulars or of a more definite pleading, or after notice of denial of his motion, the moving party shall have the same time to serve his responsive

pleading, if any is permitted by these rules, as that to which he was entitled at the time of serving his motion, but not less than five (5) days in any event.[5]

If the motion is filed beyond that period, it should rightly be denied.[6] Where it is, however, filed on time, whether or not the movant succeeds in his motion, he, the movant, has, as above-indicated, "the same time to serve his responsive pleading...as that to which he was entitled...but not less than five (5) days in any event." [7]

Pending the resolution of these questions, the issues of the case can not be said to have been joined, and a party's failure to attend subsequent hearings does not amount to failure to prosecute.[8]

A motion for a bill of particulars, not a motion to dismiss, is the proper remedy against a deficient pleading.[9] In one case,[10] it was held that in that event, a motion to dismiss for failure to state a cause of action should be treated as a motion for a bill of particulars.[11]

In a recent case,[12] it was held that a motion for a bill of particulars may be granted where the complaint fails to state in what capacity the plaintiffs sue.

The proper office of a bill of particulars is "to inform the opposite party and the court of the precise nature and character of the cause of action...the pleader has attempted to set forth, and thereby to guide his adversary in his preparations for trial and reasonably protect him against surprise at the trial." [13] It complements the rule on pleadings in general, that is, that the complaint should consist of a "concise statement of the ultimate facts." [14] Its admission, finally, is subject to the sound discretion of the judge, unless discretion has been exercised with palpable abuse.[15]

It has also been held that:

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It is the office or function, as well as the object or purpose, of a bill of particulars to amplify or limit a pleading, specify more minutely and particularly a claim or defense set up and pleaded in general terms, give information, not contained in the pleading, to the opposite party and the court as to the precise nature, character, scope, and extent of the cause of action or defense relied on by the pleader, and apprise the opposite party of the case which he has to meet, to the end that the proof at the trial may be limited to the matters specified, and in order that surprise at, and needless preparation for, the trial may be avoided, and that the opposite party may be aided in framing his answering pleading and preparing for trial. It has also been stated that it is the function or purpose of a bill of particulars to define, clarify, particularize, and limit or circumscribe the issues in the case, to expedite the trial, and assist the court. A general function or purpose of a bill of particulars is to prevent injustice or do justice in the case when that cannot be accomplished without the aid of such a bill.

It is not the office of a bill of particulars to supply material allegations necessary to the validity of a pleading, or to change a cause of action or defense stated in the pleading, or to state a cause of action or defense other than the one stated. Also it is not the office or function, or a proper object, of a bill of particulars to set forth the pleader's theory of his cause of action or a rule of evidence on which he intends to rely, or to furnish evidential information whether such information consists of evidence which the pleader proposes to introduce or of facts which constitute a defense or offset for the other party or which will enable the opposite party to establish an affirmative defense not yet pleaded.[16]

The complaint for which a bill for a more definite statement is sought, need only inform the defendant of the essential (or ultimate) facts to enable him, the defendant, to prepare an intelligent answer.[17] As we indicated, its primary objective is to apprise the adverse party of what the plaintiff wants--to preclude the latter from springing a surprise attack later. Any more "particulars", in that event, would be evidentiary in character, which must be

adduced at the trial proper.

It is noteworthy that in *Bataan Shipyard & Engineering Co., Inc. v. Presidential Commission on Good Government*,^[18] we upheld the sequestration of the Bataan Shipyard & Engineering Co., Inc., upon a prima facie showing that the PCGG had a good case against the shipping firm, or otherwise, that:

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1) that "(i)ll-gotten properties (were) amassed by the leaders and supporters of the previous regime";

a) more particularly, that "(i)ll-gotten wealth (was) accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, * * located in the Philippines or abroad, * * (and) business enterprises and entities (came to be) owned or controlled by them, during * * (the Marcos) administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship;"

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

c) that "said assets and proper-ties are in the form of bank accounts, deposits, trust accounts, shares of stocks, buildings, shopping centers, condominiums, mansions, residences, estates, and other kinds of real and personal properties in the Philippines and in various countries of the world;" and

2) that certain "business enter-prises and properties (were) taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos."^[19]

It must be stressed, however, that the above conclusions are but prima facie demonstrations, which must be proved at the trial.

We are satisfied in this case that the PCGG has made out a sufficient complaint against the petitioners. It was filed pursuant to Executive Order No. 1 as amended, and is to be tried on the theory that the petitioners are guilty of accumulating ill-gotten wealth. But as we put it in the *COCOFED* case, *supra*, and as we stated above, the sufficiency of the complaint is one thing and the merits thereof are another. The latter is not the question before us.

We also sustain the Sandiganbayan because the PCGG's complaint (as amended); from our vantage point, does set out allegations, however confusingly put in print, which, interrelated to one another, are enough to support a formal civil charge. If the petitioners are not aware of the PCGG's asseverations, the remedy, so we hold, is to deny the same in their answer for lack of "knowledge or information sufficient to form a belief as to the truth of"[²⁰] the said averments. They can not, however, demand for any more particulars without actually making the PCGG expose its evidence unnecessarily before the trial stage.

A reading, indeed, of paragraphs four through six, and paragraph fourteen, of the PCGG's Complaint illustrates enough semblance of logic, as to what the Republic wants from the petitioners. We quote:

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4. Defendant LUCIO C. TAN was a business partner of Defendant Ferdinand E. Marcos. Defendants Ferdinand E. Marcos and Lucio C. Tan had agreed that the former would own 60% of Shareholdings, Inc., which, in turn, beneficially held and/or controlled substantial shares of Fortune Tobacco, Asia Beer Brewery, Allied Banking Corporation and Foremost Farms. Apart from said 60% beneficial interest of Defendant Ferdinand E. Marcos, Defendant Lucio Tan yearly paid the former sums of money from 1980 to 1986, in exchange for privileges and concessions which said Defendant Ferdinand E. Marcos gave Defendant Lucio C. Tan, as more particularly described in paragraph 13 of this Complaint. The latter, Defendant Lucio C. Tan, is a resident of Quezon City and may be served with summons and other court processes at 30 Biak-na-Bato St., Sta. Mesa Heights, Quezon City.

5. Defendants FERDINAND E. MARCOS and IMELDA R. MARCOS are spouses. They may be served with summons and other court processes either (i) at their last known address at Don Mariano Marcos St., Cor. P. Guevarra Street, San Juan, Metro Manila; (ii) at 6577 Kalaniana'ole Highway, Honolulu, Hawaii, United States of America, at which two Hawaii addresses they now temporarily reside, even as they remain residents and citizens of the Philippines.

6. The following Defendants acted as dummies, nominees, or agents, by allowing themselves to be incorporators, directors, board members and/or stockholders of corporations held and/or controlled by Defendants Lucio C. Tan, Ferdinand E. Marcos and Imelda R. Marcos. Said Defendants enumerated below may be served with summons and other court processes at the respective addresses appearing opposite their names:

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14. Defendant Lucio C. Tan, by himself and/or in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, and taking undue advantage of his relationship and influence with Defendant Spouses, among others:

(a) without sufficient collateral and for a nominal consideration, with the active collaboration, knowledge and willing participation of Defendant Willy Co, arbitrarily and fraudulently acquired control of the General Bank and Trust company which eventually became Allied Banking Corporation, through then Central Bank Governor Gregorio Licaros, as shown by, but not limited to, the following circumstances:

(1) In 1976, the General Bank and Trust Company (GBTC, for short) got into financial difficulties. The Central Bank then extended an emergency loan of P350 million to GBTC. In extending this loan, the CB however took control of GBTC when the latter executed an Irrevocable Proxy of 2/3 of GBTC's outstanding shares in favor of the CB and when 7 of the 11-member Board of Directors were CB nominees. Subsequently, on March 25, 1977, the Monetary Board of CB issued a Resolution declaring GBTC insolvent, forbidding it to do business and placing it under receivership.

(2) In the meantime, a public bidding for the sale of GBTC assets and liabilities was scheduled at 7:00 P.M. on March 28, 1977. Among the conditions of the bidding were: (a) submission by the bidder of Letter of Credit issued by a bank acceptable to CB to guaranty payment or as collateral of the CB emergency loan; and (b) a 2-year period to repay the said CB emergency loan. On March 29, 1977, CB thru a Monetary Board Resolution, approved the bid of the group of Lucio Tan and Willy Co. This bid, among other things, offered to pay only P500,000.00 for GBTC assets estimated at P688,201,301.45; Capital Accounts of P103,984,477.55; Cash of P25,698,473.00; and the takeover of the GBTC Head Office and branch offices. The required Letter of Credit was not also attached to the bid.

(3) As already stated, GBTC eventually became the Allied Banking Corporation in April, 1977. The defendants Lucio Tan, Willy S. Co and Florencio T. Santos are not only incorporators and directors but they are also the

major shareholders of this new bank.

(b) delivered to Defendant Spouses Ferdinand and Imelda Marcos, sometime in July, 1979 or thereafter, substantial beneficial interests in shares of stock worth about P50 million pesos an the Asia Brewery, Inc. through dummies, nominees or agents, with the active collaboration, knowledge and willing participation of Defendants Florencio T. Santos as then President, Mariano Tan Eng Lian as then Treasurer, and Domingo Chua and Mariano Khoo as then Directors, of the Asia Brewery, Inc. in consideration of substantial concessions which their varied business ventures were unduly privileged to enjoy, such as but not limited to, the grant of dollar allocation amounting to about U.S. \$6,934,500.00.

(c) gave improper payments such as gifts, bribes, commissions, and/or guaranteed "dividends" to said Defendant spouses in various sums, such as P10 M in 1980, P10 M in 1981, P20 M in 1982, P40 M in 1983, P40 M in 1984, P50 M in 1985, P50 M in 1986, in consideration of Defendant Spouses continued support of Defendant Lucio Tan's diversified business ventures and/or Defendant Spouses ownership or interest in said diversified business ventures, such as Allied Banking Corporation, Asia Brewery, Inc., Fortune Tobacco Co., Shareholdings, Inc., among others. Even earlier, Tan gave the amounts of P11 million in 1975, about P2 million in 1977, and P44 million in 1979, among other amounts.

(d) sometime in May, 1979, applied for and was granted by the Central Bank "free dollar allocation" in millions of US Dollars for the use and benefit of Asia Brewery Inc., such as for the importation of the whole machinery set up for the proposed brewery and glass manufacturing plants. Defendants were major stockholders and/or in which they held substantial beneficial interest;

(e) established Shareholdings, Inc., a holding company, which in turn beneficially held and/or controlled substantial shares of stocks in Fortune Tobacco Corporation, Asia Brewery, Inc., Foremost Farms, Inc., Himmel Industries, Inc., Grandspan Development Corporation, Silangan, Inc., and Allied Banking Corporation, with the active collaboration, knowledge and willing participation of Defendants Carmen Khao Tan, Florencio T. Santos, Natividad N. Santos, Domingo Chua, Tan Hui Nee, Mariano Tan Eng Lian, Estate of Benito Tan Kee Hiong (represented by Tarciana C. Tan), Florencio N. Santos, Jr., Harry C. Tan, Tan Eng Chan, Chung Poe Kee, Mariano Khoo, Manuel Khoo, Miguel Khoo, Jaime Khoo and Elizabeth Khoo, who are or acted as dummy-shareholders of the Shareholdings, Inc., as well as directors in the case of Harry Tan and Manuel Khoo, in order to prevent disclosure and recovery of illegally obtained assets. Moreover, for the same purpose, in December, 1980, said Defendants transferred to Shareholdings, Inc. their purported shares of stocks in Foremost Farms, Inc., Fortune Tobacco Corporation, Asia Brewery, Inc., Himmel Industries, Inc., Grandspan Development Corp., and Silangan Holdings, Inc.

(f) caused losses in millions of pesos to the Development Bank of the Philippines (DBP), a government lending institution, by unlawfully selling DBP's controlling interest in Century Park Sheraton Hotel (Manila), owned by Maranaw Hotel and Resorts Corp., a grossly undercapitalized company beneficially held and controlled by Lucio C. Tan, said transaction having been facilitated with the active collaboration, knowledge and willing participation of defendants Harry Tan and Don Ferry while the latter was then serving as Vice-Chairman of DBP, as shown by, but not limited to, the following facts and circumstances:

(i) Sometime in 1984, Lucio C. Tan wrote defendant Ferdinand E. Marcos informing him among other things that "new business prospect to buy out from DBP Holding" includes the Century Park Sheraton Hotel (Sheraton, for short). Apparently receiving favorable reaction from Marcos, Lucio Tan organized and established on October 5, 1984 the Sipalay Trading Corporation (Sipalay, for short), with a capitalization of P5 million. Defendant Harry C. Tan became Chairman and President of the corporation.

(2) Sipalay in a letter dated January 29, 1985 wrote defendant Don Ferry, as then Vice-Chairman of the DBP, offering to buy for U.S. \$8.7 million 79% of the voting shares of the Maranaw Hotel and Resorts Corp. (MHRC, for short), owned by DBP. On January 30, 1985, the DBP Board approved "in principle" the above proposal to buy.

(3) On February 26, 1985, Sipalay requested DBP to waive its requirement "to provide a comptroller pending full payment of the purchase price". Defendant Ferry agreed to this waiver.

(4) On March 1, 1985, DBP represented by defendant Ferry and Sipalay represented by defendant Harry C. Tan, executed an Agreement to buy and sell - DBP to sell 78.3% of its controlling interest in MHRC to Sipalay for a consideration of U.S. \$8.5 million with 20% of the purchase price as downpayment. At the same time, DBP and Sipalay also executed an escrow agreement which stipulated that the interest earned by the escrow account would be for the benefit of Sipalay (rather than DBP). Defendants Ferry and Harry Tan again signed for their respective agency and corporation.

(5) On April 22, 1985, the corresponding Deed of Sale was executed by the parties, defendant Ferry again signing for DBP, and defendant Harry C. Tan for Sipalay. A Pledge Agreement was likewise signed on the same date, the subject shares being pledged by Sipalay to DBP, and the pledge to remain in full force until the full payment of the purchase price or until Sipalay may have substituted as collateral a stand-by letter of credit to secure the unpaid balance. Sipalay however did not turn over the subject shares to DBP.

(g) printed in or about 1981, without legal authority, BIR strips (sic) stamps worth about P7 billion pesos and affixed them on packs of cigarettes produced by Fortune Tobacco Corporation, in violation of Section 180 of the Internal Revenue Code of 1977, thereby defrauding the Plaintiff and the Filipino people of billions of pesos in tax receipts.

(h) established in May, 1985 the Northern Redrying Co., Inc. (NRCI), a Virginia Tobacco Company, which on several instances in 1986 made importations and purchases of about 9,607,482.9 net kilos, in excess of the ceiling set by law, with the active collaboration of Defendants Celso C. Ranola, William T. Wong, Ernesto B. Lim, Benjamin T. Albacita who are all Directors of NRCI and at the time of the establishment of NRCI, were employees of defendant Lucio Tan. Defendant Federico Moreno, as Chairman of the Virginia Tobacco Administration, supervised, approved and/or permitted such importations and purchases.

15. The acts of Defendants, singly or collectively, and in unlawful concert with one another, constitute gross abuse of official position and authority, flagrant breach of public trust and fiduciary obligations, brazen abuse of right and power, unjust enrichment, violation of the Constitution and laws of the Republic of the Philippines, to the grave and irreparable damage of Plaintiff and the Filipino people.[21]

In essence, these are what the PCGG says:

1. The petitioner Lucio Tan was Mr. Marcos' business partner;
2. Through undue influence, coercion, and abuse of right they acquired shareholdings from various firms, and built a business empire therefrom;
3. The remaining petitioners acted as their "dummies, nominees, or agents";
4. Together with the Marcoses, they maneuvered their way into these firms and acquired control thereof;
5. The same were accomplished through unacceptable machinations such as insider trading and similar acts, in violation of existing laws;

6. They also unjustly enriched the petitioners at the expense of the Republic of the Philippines and the Filipino people.

The foregoing, so we find, are actionable wrongs that are proper for a complaint.

We can not accept the petitioners' pleadings that:

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8. As will be noted from the above, the ultimate facts upon which each cause of action is based are not alleged directly and particularly. Instead, they are described as "the unlawful acts described above", "the foregoing acts", "all of the acts described above", "the unlawful acts set forth above", and "defendants' unlawful, malicious, immoral and wanton acts described above".

9. What the complaint does is to compel petitioners to determine which allegations in the first fifteen paragraphs pertain to each cause of action. Petitioners are made to guess and speculate which allegations in the first fifteen paragraphs pertain to the "first cause of action", the "second cause of action", the "third cause of action", the "fourth cause of action" and the "fifth cause of action".

10. It is petitioners' submission that due process requires that before a defendant is required to answer a complaint, a common understanding must exist among the plaintiff, the defendant, and the court as to the ultimate facts comprising each cause of action. What respondent court has done, in denying petitioners' "Motion for a More Definite Statement or a Bill of Particulars" (of the statement of the Causes of Action), is to allow a situation whereby the plaintiff may have one understanding of the ultimate facts comprising each cause of action, the defendants, possibly another understanding, and the court another view. Not only would it be grossly unfair to compel a defendant to answer and to go to trial in such a situation but would likely invite protracted, and perhaps, endless controversy on what the issues really are.[22]

We agree that the PCGG's Complaint/Expanded Complaint is garbled in many respects, but this is no excuse for sloth on the part of the petitioners. The Sandiganbayan, furthermore, has taken pains--on the behest of the petitioners--to interconnect, paragraph by paragraph, the allegations of the Complaint/Expanded Complaint in question. They, the petitioners, can not any more be heard to insist that they are still left at a loss and in the dark. The Complaint/Expanded Complaint is complete enough to perish fears of the PCGG pulling a surprise subsequently.

We therefore order the remand of the case against the twenty-two petitioners and heard without any further delay.

WHEREFORE, the petition is DISMISSED. Costs against the petitioners.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Narvasa, J., no part, related to a party involved.

Gutierrez, Jr., J., on leave.

[1] Prayer of Complaint, Rollo, 48-50.

[2] Id., 8-11; emphasis in the original.

[3] Id., 121-122.

- [4] RULES OF COURT, *supra*, Rule 12, sec. 1, par. (a).
- [5] *Supra*, par. (b); also, *Amante v. Suñga*, No. L-40491, May 28, 1975, 64 SCRA 192; *Arcega v. Court of Appeals*, No. L-20869, August 28, 1975, 66 SCRA 229.
- [6] *Woodcraft Works, Ltd. v. Moscoso*, 92 Phil. 1021 (1953).
- [7] *Supra*, Rule 12, sec. 1, par. (b); also, *Borromeo v. COMELEC*, No. L-29839, July 17, 1969, 28 SCRA 772.
- [8] *Itchon v. Galigod*, No. L-20962, May 27, 1966, 17 SCRA 268.
- [9] *Borromeo v. COMELEC*, *supra*.
- [10] *Salvador v. Frio*, No. L-25352, May 29, 1970, 33 SCRA 315.
- [11] *Supra*.
- [12] *Bantillo v. Intermediate Appellate Court*, G.R. No. 75311, October 18, 1989.
- [13] 61A Am Jur 2d, Pleading S 296.
- [14] RULES OF COURT, *supra*, Rule 6, sec. 3.
- [15] 61A Am Jur id., S 297.
- [16] 71 C.J.S. Pleading S 376.
- [17] *Pajares v. Abad Santos*, No. L-29543, November 29, 1969, 30 SCRA 741. According to Francisco: "Under the rule providing for a bill of particulars, a party may properly seek disclosure only of matters which define the issues and become a part of the pleadings, as distinguished from the rule providing for interrogatories under which a party may properly seek disclosure of matters of proof which may later be made a part of the record as evidence. A party may not be compelled to disclose his evidence or the names of his witnesses in a bill of particulars." See FRANCISCO, REVISED RULES OF COURT OF THE PHILIPPINES 707 (1973).
- [18] G.R. No. 75885, May 27, 1987, 150 SCRA 181.
- [19] *Supra*, 205-206; see also *Philippine Coconut Producers Federation, Inc. v. Presidential Commission on Good Government*, G.R. No. 75713, October 2, 1989.
- [20] RULES OF COURT, *supra*, Rule 8, sec. 10.
- [21] *Id.*, 58-79, emphases in the original.
- [22] *Rollo*, *id.*, 11-12.

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