

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN,
THIRD DIVISION, SIMPLICIO A. PALANCA IN HIS OWN BEHALF AS A
STOCKHOLDER OF BACOLOD REAL ESTATE DEVELOPMENT
CORPORATIO...**

G.R. No. 85284. February 28, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for CERTIORARI to annul and set aside the resolution of the Sandiganbayan (Third Division), dated 3 June 1988, granting the private respondents' motion to intervene in Civil Case No. 0025 and admitting their answer in intervention, as well as its resolution, dated 25 August 1988, denying the petitioner's motion for reconsideration; PROHIBITION to order the respondent court to cease and desist from proceeding with the intervention filed with it; and alternatively, MANDAMUS to compel the respondent court to dismiss the intervention case.

The antecedents are as follows:

On 29 July 1987, the Republic of the Philippines, as Plaintiff, through its governmental instrumentality the Presidential Commission on Good Government (PCGG) filed with the respondent Sandiganbayan a complaint against Ferdinand E. Marcos, et al. for reconveyance, reversion, accounting, restitution and damages, docketed therein as Civil Case No. 0025 (PCGG No. 26).[1]

On or about 3 September 1987, before the said Civil Case No. 0025 could be set for hearing, private respondent Simplicio A. Palanca in his own behalf as a stockholder of Bacolod Real Estate Development Corporation (BREDCO) and other stockholders similarly situated, filed with the respondent Sandiganbayan a "Motion For Leave To Intervene"[2] attaching thereto their "Answer In Intervention".[3]

In their motion, private respondents alleged that they be —

"x x x allowed to intervene in the present action and to file the Answer in intervention hereto attached as Annex 'A', the said stockholders having a legal interest in the matter in litigation and in the disposition of the properties listed in Annex 'A' of the Complaint as 'BREDCO LOTS' and shares of stock in Bacolod Real Estate Development Corporation.

"In justification, it is further respectfully alleged that:

"1. Close examination of the Complaint, in particular par. 12 thereto under 'V. SPECIFIC AVERMENTS OF DEFENDANTS' ILLEGAL ACTS', makes no mention at all about BREDCO being the subject of any anomalous transaction engaged in by any of the defendants, in consequence of which the listed BREDCO lots could have been gotten illegally. It is to be observed, on the other hand, that the titles mentioned in aforesaid Annex of the complaint covering the lots in question are not registered in the names of any of the defendants but in the name of Bacolod Real Estate Development Corporation.

"2. Similarly, the shares of stock in Bacolod Real Estate Development Corporation appearing under PERSONAL PROPERTY on page two of Annex 'A' of the complaint are carried, not in the names of any of the defendants, but in the name of Marsteel Consolidated, Inc. and were acquired under the circumstances averred more in detail in the accompanying Answer in Intervention by reason of which said shares should not be involved in the present action.

"3. If intervention is allowed, intervenors are prepared to prove that if ever any of the defendants through Marsteel Consolidated, Inc. and Marsteel Corporation came to have any interest in Bacolod Real Estate Development Corporation, it was only by way of accommodation on the part of BREDCO stockholders who transferred their shareholdings aggregating 70% of the subscribed capital to enable Marsteel Consolidated to secure adequate financing for the reclamation and port development project." [4]

The foregoing allegations were further expanded and elaborated in the private respondents' Answer in Intervention.

On 2 December 1987, petitioner filed its Reply [5] to Answer In Intervention, while private respondents filed a "Rejoinder to Reply With Motion To Release BREDCO Lots" [6] and also a "Motion To Calendar For Hearing" the motion to release BREDCO lots. [7]

On 22 January 1988, respondent court promulgated a resolution [8] holding in abeyance action on the private respondents' "Rejoinder to Reply with Motion to Release BREDCO lots", and set the Motion for Leave to Intervene for hearing on 2 February 1988.

On 11 March 1988, respondent court issued an order [9] giving petitioner fifteen (15) days from 11 March 1988 within which to file its opposition and/or comment on the motion to intervene and giving the private respondents in turn ten (10) days within which to file their reply thereto.

On 23 March 1988, petitioner filed its Motion to Dismiss "Answer In Intervention", on the grounds that; (1) respondent court lacks jurisdiction and (2) intervenors have no legal interest in the matter in litigation, [10] which the private respondents opposed. [11]

On 6 June 1988, respondent court promulgated a Resolution dated 3 June 1988 [12] granting the private respondents' motion to intervene and admitting their Answer in Intervention.

Petitioner moved for reconsideration but this was denied by respondent court in its resolution of 25 August 1989. [13]

Hence, the instant petition.

The petitioner, through the Solicitor General, contends that in issuing the questioned resolutions granting the Motion to Intervene and admitting the Answer-in-Intervention, respondent Sandiganbayan acted in contravention of a national or public policy embedded in Executive Order Nos. 1, 2, 4 and related issuances, or otherwise acted in a way not in accord with law or with the applicable decisions of this Court, because:

- (a) Petitioner, being the sovereign state, cannot be sued without its consent, and the Intervention is, in legal effect, a suit or counter-suit against the sovereign state, the Republic of the Philippines;
- (b) The cause of action of intervenors does not fall within the jurisdiction of the Sandiganbayan as expressly spelled out in P. D. No. 1606 and Executive Order No. 14;
- (c) Intervenors have no legal interest in the matter in litigation, and the subject matter is not in custodia legis of respondent court; and

(d) Intervenors' claims as contained in their Motion for Intervention and Answer-in-Intervention, are claims between and/or among Ferdinand and Imelda Marcos and their cronies, i.e., "members of their immediate family, close relatives, subordinates, and/or business associates, dummies, agents and nominees" and are cognizable not by respondent court but by the regular courts or other fora. Even if there would be multiple litigations, as among themselves, the legal effect remains, i.e., that there is only one case filed by the Republic against the named defendants in Civil Case No. 0025, grounded on causes of action entirely distinct from any cause of action which intervenors may have against Mr. Marcos and his cronies.

The petition is not impressed with merit.

The Rules of Court permit an aggrieved party, generally, to take a cause and apply for relief with the appellate courts by way of either of two distinct and dissimilar modes — through the broad process of appeal or the limited special civil action of certiorari. An appeal brings up for review errors of judgment committed by a court of competent jurisdiction over the subject of the suit or the persons of the parties or any such error committed by the court in the exercise of its jurisdiction amounting to nothing more than an error of judgment. On the other hand, the writ of certiorari issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ of certiorari cannot legally be used for any other purpose. In terms of its function, the writ of certiorari serves to keep a lower court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess of jurisdiction or to relieve parties from arbitrary acts of courts — acts which courts have no power or authority in law to perform.[14]

Hence, the main issue to be resolved in the present case, which is principally a petition for certiorari to annul and set aside the questioned resolutions of respondents court is, whether or not the Sandiganbayan has jurisdiction over the action for intervention, or if it has, whether respondent court acted with grave abuse of discretion amounting to lack or excess of its jurisdiction in rendering the questioned resolutions.

In the present case, petitioner merely contends that the cause of action of intervenors does not fall within the jurisdiction of the Sandiganbayan as expressly spelled out in Presidential Decree No. 1606 and Executive Order No. 14; it does not claim that respondent court committed grave abuse of discretion amounting to lack or excess of its jurisdiction in rendering the questioned resolutions.

The jurisdiction of the Sandiganbayan has already been settled in Presidential Commission on Good Government vs. Hon. Emmanuel G. Pena, etc., et al.[15] where the Court held that -

"x x x. Under Section 2 of the President's Executive Order No. 14 issued on May 7, 1986, all cases of the Commission regarding 'the funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their Close Relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees' whether civil or criminal, are lodged within the 'exclusive and original jurisdiction of the Sandiganbayan' and all incidents arising from, incidental to, or related to, such cases necessarily fall likewise under the Sandiganbayan's exclusive and original jurisdiction, subject to review on certiorari exclusively by the Supreme Court." (italics supplied)

In reiterating the aforequoted ruling in six (6) subsequent cases[16] which were decided jointly, again, the Court held that —

"x x x the exclusive jurisdiction conferred on the Sandiganbayan would evidently extend not only to the principal causes of action, i.e., the recovery of alleged ill-gotten wealth, but also to 'all incidents arising from, incidental to, or related to, such cases,' such as the dispute over the sale of the shares, the propriety of the issuance of ancillary writs or provisional remedies relative thereto, the sequestration thereof, which may not be made the subject of separate actions or proceedings in another forum."

Intervention is not an independent action, but is ancillary and supplemental to an existing litigation.[17] Hence, the private respondents' action for intervention in Civil Case No. 0025, not being an independent action, is merely incidental to, or related to, the said civil case. Since the respondent Sandiganbayan has the exclusive and original jurisdiction over Civil Case No. 0025, it has likewise original and exclusive jurisdiction over the private respondents' action for intervention therein.

Now, considering that respondent Sandiganbayan has jurisdiction not only over Civil Case No. 0025 but also over the private respondents' action for intervention, any error or irregularity that it may have committed in rendering its questioned resolutions, in the exercise of its jurisdiction, amounts to an error of judgment, which is not correctible in the present petition for certiorari but by appeal.

Accordingly, this case may be dismissed outright without the Court having to pass upon the other issues raised in the petition. However, considering that the litigation below is of great public interest and involves a matter of public policy, the Court has decided to review the other errors allegedly committed by respondent court in rendering its questioned resolutions.

In this jurisdiction, the law on "intervention" is found in the Rules of Court.[18] Thus, a person, may, before or during a trial, be permitted by the court, in its discretion, to intervene in an action, if he has legal interest in the matter in litigation, or in the success of either of the parties or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof.[19]

The Court is not impressed with the contention of petitioner that the intervenors have no legal interest in the matter in litigation. In this connection, it would suffice to quote what the respondent court said in holding that the intervenors have a legal interest in the matter in litigation. Thus —

"Has Palanca shown a proper case for intervention by him and his co-stockholders who are similarly situated as he is?

A narration of the pertinent facts alleged by Palanca and the plaintiff indicates the answer.

In 1961, BREDCO was awarded by Bacolod City a contract to undertake the reclamation and port development of the city. As of 1975, a sizeable portion of land had already been reclaimed from the sea and corresponding torrens titles issued in BREDCO's name.

In that year, BREDCO engaged MARSTEEL as a contractor to complete the project with power to negotiate in its name or jointly and/or severally with BREDCO for loans to finance the reclamation and port development, and to mortgage all reclaimed lots and other assets of the project as security. For its services, MARSTEEL shall receive 65% of the excess of all revenues over all disbursements. Accordingly, BREDCO conveyed to MARSTEEL 65% of each lot already reclaimed and that to be reclaimed.

In 1977, MARSTEEL assigned to MCI, which owned 100% of its capital stock, all its rights, interests, obligations, and undertakings in the project. To enable MCI to expand its base of negotiation for loans needed in the reclamation and port development, the BREDCO stockholders transferred to MCI their respective shares of stock amounting to 70% of the capital stock of BREDCO. In return, they 'shall be, entitled to a share of 35% in excess of all revenues over all disbursements of the projects,' it being 'understood that payment of the corresponding share shall be due to BREDCO stockholders as owners of existing interests in the project, regardless of the fact that by implementation of this AGREEMENT, they ceased to be stockholders of BREDCO.'

In September 1986, the Presidential Commission on Good Government (PCGG) sequestered 'all assets, properties, records and documents' of MARSTEEL, MCI, and BREDCO'. In July 1987, the complaint at bar

was filed and expanded in March 1988. The pleadings, original and expanded, allege that the defendants, acting singly or collectively, amassed ill-gotten wealth listed in Annex 'A' thereof, among which are the BREDCO lots and shares of stock, and pray that the ill-gotten wealth be reconveyed to the plaintiff, plus damages. Significantly, however, the bodies of the complaints do not mention anything about BREDCO, its project, lots, and stocks, nor about MCI.

Under these alleged facts, Palanca has established a proper case for intervention. Firstly, he and his co-stockholders have a legal interest in the matter in litigation, namely, their 70% of the capital stock of BREDCO, which they transferred to MCI by way of alleged accommodation, or its equivalent of 35% of the excess of all revenues over all disbursements, to which they are entitled 'as owners of existing interests in the project.' Section 2, Rule 12, Revised Rules of Court, provides that a person may be permitted 'to intervene in an action, if he has legal interest in the matter in litigation.'

'As a general rule the right to intervene exists in favor of one who claims to be the owner or to have some interest in the property which is the subject of litigation, and this without particular regard to the value of the property or the right claimed therein. A third party may intervene in a sequestration suit involving title to personal property, and have his claims to the possession of the property vindicated therein. So, in an action for possession of real or personal property, an intervenor may be admitted on the ground that he is an owner thereof, either to assist in the defense, or to claim the property for himself, or to obtain some other relief germane to the action.' (59 Am Jur 2d, Parties, Sec. 152, p. 585)

Secondly, the same Section 2, Rule 12, further provides that intervention by a person may be permitted 'when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof.' On this point, the Supreme Court observed:

'We shall now speak of the case where the stranger desires to intervene for the purpose of asserting a property right in the res, or thing, which is the subject-matter of the litigation, without becoming a formal plaintiff or defendant, and without acquiring the control over the course of a litigation, which is conceded to the main actors (sic) therein. The mode of intervention to which reference is now made is denominated in equity procedure the intervention *pro interesse suo* and is somewhat analogous to the trial of a right of property in an action of law, its purpose being to enable a person whose property gets into the clutches of a court, in a controversy between others, to go into court and to procure it or its proceeds to be surrendered to him. It often happens that a person who really owns property, or has a superior lien or other interest in it, sees a litigation spring up between others who assert rights in or concerning it. If the court takes possession of the res, or otherwise gets jurisdiction over it in such a controversy, the real owner is not compelled to stand idly by and see the property disposed of without asserting his rights. Though it be granted that the litigation would not be technically binding on him, because of his not being a party, yet it might well happen that complications would ensue whereby his rights would be materially prejudiced. For instance, the subject-matter of the litigation might consist of a fund to be distributed, and the conditions might be such that if it were turned over to the particular litigant who should appear to have the better right in the original action, the person really having a superior title might be left without redress. Accordingly provision is made whereby persons who have not been joined as parties in the original proceedings may intervene and assert a right antagonistic or superior to that of one or both of the parties. (*Bosworth vs. Terminal etc. Assoc. of St. Louis*, 174 U.S., 182, 187, 43 L. ed., 941, 943). As regards the right to intervene in this manner, it may be stated that if the party desiring to intervene shows a legitimate and proper interest in the fund or property in question, the motion to intervene should be granted, especially if such interest cannot be otherwise properly protected.' (*Joaquin v. Herrera*, 37 Phil. 705, 722-724)

Here, the BREDCO lots and stocks were sequestered and are now in custodia legis (Bernas, *The Constitution of the Republic of the Philippines, An Annotated Text*, 1987 ed., p. 129, footnote 42). From the facts averred by Palanca and the plaintiff, it is easy to see that in the event We decide to order the reconveyance of those assets to

the plaintiff, Palanca and his co-stockholders in BREDCO stand to be adversely affected.

And thirdly, the legal interest of Palanca and his co-stockholders in the matter in litigation and the possibility of a judgment ordering reconveyance in favor of the plaintiff, invest them with legal interest in the success of the defendants, at least insofar as the BREDCO lots and shares are concerned. Section 2, Rule 12, also permits intervention by a person who has legal interest in the success of either of the parties."^[20]

The petitioner's contention that the State cannot be sued without its consent and that private respondents' action for intervention is, in legal effect, a suit or counter suit against the sovereign is also untenable.

The Rules of Court^[21] provide that the intervention shall be made by complaint filed and served in regular form, and may be answered as if it were an original complaint; but where the intervenor unites with the defendant in resisting the claims of the plaintiff, the intervention may be made in the form of an answer to the complaint. In other words, a third person who makes himself a party to an existing litigation, may either join the plaintiff in claiming what is sought in the complaint, by filing a complaint in intervention, or by uniting with the defendant in resisting the claims of the plaintiff, by filing an answer in intervention.

In *Froilan v. Pan Oriental Shipping, Co.*,^[22] the plaintiff therein Fernando A. Froilan filed a complaint against the defendant, Pan Oriental Shipping Co., The Republic of the Philippines intervened by filing a complaint in intervention. Thereafter, the defendant filed its answer to the complaint in intervention, and set up a counterclaim against the Republic of the Philippines. The trial court dismissed the defendant's counterclaim against the Republic on the ground, among others, that the state is immune from suit. On appeal, this Court held that the dismissal of the counterclaim was untenable, because by filing its complaint in intervention the Government in effect waived its right to non-suability.

In another case, *Lim vs. Brownell, Jr. and Kagawa*,^[23] the plaintiff Benito E. Lim, as administrator of the intestate estate of Arsenia Enriquez, filed a complaint in the Court of First Instance of Manila against the Alien Property Administrator (later substituted by the Attorney General of the United States) for the recovery of four (4) parcels of land (which were subsequently transferred to the Republic of the Philippines) with a prayer for the payment of back rentals. The Republic of the Philippines intervened in the case. The defendant Attorney General of the United States and the defendant-intervenor Republic of the Philippines each filed an answer, alleging by way of affirmative defense, among others, that the lower court had no jurisdiction over the claim for rentals since the action in that regard constituted a suit against the Republic to which it had not given its consent. The trial court dismissed the complaint for lack of jurisdiction. On appeal, this Court affirmed, with the following reasons:

"The claim for damages for the use of the property against the intervenor defendant Republic of the Philippines to which it was transferred, likewise, cannot be maintained because of the immunity of the state from suit. The claim obviously constitutes a charge against, or financial liability to, the Government and consequently cannot be entertained by the courts except with the consent of said government. (*Syquia vs. Almeda Lopez*, 84 Phil. 312; 47 Off. Gaz., 665; *Compania General de Tabacos vs. Gov't. of the PI*, 45 Phil., 663). Plaintiff argues that by its intervention, the Republic of the Philippines, in effect, waived its right of non-suability, but it will be remembered that the Republic intervened in the case merely to unite with the defendant Attorney General of the United States in resisting plaintiff's claims, and for that reason asked no affirmative relief against any party in the answer in intervention. x x x. Clearly, this is not a case where the State takes the initiative in an action against a private party by filing a complaint in intervention, thereby surrendering its privileged position and coming down to the level of the defendant — as what happened in the case of *Froilan vs. Pan Oriental Shipping Co., et al.* — 95 Phil. 905 cited by the plaintiff — but one where the State, as one of the defendants merely resisted a claim against it precisely on the ground, among others, of its privileged position which exempts it from suit." (italics supplied).

In the present case, the private respondents intervened in Civil Case No. 0025 merely to unite with the defendants therein in resisting the claims of petitioner, as plaintiff, and for that reason asked for no affirmative relief against any party in their answer in intervention. In other words, this is not a case where the private respondents take the initiative in an action against petitioner by filing a complaint in intervention or a complaint. As observed by respondent Sandiganbayan:

"In intervening, Palanca and his co-stockholders have for their purpose to exclude the BREDCO lots and stocks or, at least, their 35% interest in the BREDCO project from any possible judgment directing reconveyance of the alleged ill-gotten wealth to the plaintiff. They do not pray for damages against the latter. In effect, they occupy a defensive position as regards those shares of stock or interest. The fact that they interjected themselves into his litigation at their own initiative does not alter the essential nature of their intervention." [24]

Private respondents' action for intervention in Civil Case No. 0025 is not, therefore, a suit or counter-suit against petitioner Republic of the Philippines.

Having arrived at the above conclusions, the Court finds no need to further discuss the petitioner's pretense that the private respondents' claims are claims as between and/or among Ferdinand and Imelda Marcos, et al., and that the same is not cognizable by respondent Sandiganbayan but by the regular courts. It suffices to state that, as already stated, in intervening in Civil Case No. 0025, private respondents merely joined the defendants therein in resisting the claims of petitioner, as plaintiff, and that they asked no affirmative relief against any party in their answer in intervention. They do not appear to have any controversy with the defendants, Ferdinand and Imelda Marcos, et al.

ACCORDINGLY, the petition in the present case is hereby DISMISSED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, Grino-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Rollo, p. 81.

[2] Rollo, p. 108.

[3] Rollo, p. 111.

[4] Rollo, pp. 108-109.

[5] Rollo, p. 142.

[6] Rollo, p. 146.

[7] Rollo, p. 145.

[8] Rollo, p. 150.

[9] Rollo, p. 152.

[10] Rollo, p. 153.

[11] Rollo, p. 164.

[12] Rollo, p. 61.

[13] Rollo, p. 74.

[14] Silverio vs. Hon. Court of Appeals, et al., G.R. No. L-39861, 17 March 1986, 141 SCRA 527 and cases therein cited.

[15] G.R. No. 77663, 12 April 1988, 159 SCRA 556.

[16] Soriano III vs. Yuzon, 164 SCRA 226.

[17] Garcia vs. David, 67 Phil. 279, 282.

[18] Rule 12, Rules of Court.

[19] Section 2, Rule 12, Rules of Court.

[20] Rollo, pp. 63-66.

[21] Sec. 2(c), Rule 12, Rules of Court.

[22] 95 Phil. 905.

[23] 107 Phil. 344.

[24] Rollo, p. 66

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