

ROBERTO S. BENEDICTO, PETITIONER, VS. THE BOARD OF ADMINISTRATORS OF TELEVISION STATIONS RPN, BBC AND IBC, RESPONDENT.

G.R. No. 87710, March 31, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

These two cases were consolidated for the reason that they involve the sequestered television and broadcast stations of Roberto S. Benedicto, well-known friend and classmate of the late President Ferdinand E. Marcos.

G.R. No. 87710

"Roberto S. Benedicto vs. Board
of Administrators of Television
Stations RPN, BBC and IBC

A petition for prohibition and mandamus with prayer for preliminary injunction and/or restraining order, was filed by Benedicto in 1989 to prohibit the respondent Board of Administrators from exercising management, operation, and control of three (3) television stations, namely: (1) the Inter-Continental Broadcasting Corporation (IBC-13), (2) Radio Philippines Network (RPN-9), and (3) Banahaw Broadcasting Corporation (BBC-2), collectively called "Broadcast City," and to compel the respondent Board to turn them over to their respective Boards of Directors, as provided in an Agreement between the petitioner and the Presidential Commission on Good Government (PCGG).

After the February Revolution in 1986, the properties, assets, and business of Broadcast City were abandoned, leaving no one to look after them. When the PCGG was created in February 1986, its chairman, now Senator Jovito Salonga, requested the Ministry of National Defense and the Ministry of Information, in the interest of national security, to sequester Broadcast City pending clarification of its uncertain financial condition, as well as its legal and beneficial ownership.

In compliance with the PCGG's recommendation, the Ministry of National Defense on March 6, 1986, requested the Minister of Information to immediately undertake the management and administration of the sequestered facilities.

On April 8, 1986, President Corazon C. Aquino issued Executive Order No. 11 creating a Board of Administrators "to manage and operate the business and affairs of Broadcast City." Executive Order No. 11 provided that the Board of Administrators shall "function in all respects like a board of directors of a corporation under the Corporation Code," exercise "all the powers imposed on trustees under the principles of the general law on trust and officious managers under the law on extra-contractual obligations" (Sec. 3), and fixed its term of existence to be "coterminous with the investigation of the seized assets by the Presidential Commission on Good

Government and until final disposition of the seized assets in accordance with the findings of the Commission." (Sec. 7.) The members of the board were to hold office "at the pleasure of the President."

Pursuant to Section 1 of Executive Order No. 11, the Minister of Information appointed the members of the Board of Administrators on April 11, 1986.

The petitioner filed in the Supreme Court an action against the PCGG to annul the sequestration, and to recover the management, of Broadcast City (G.R. No. 74974 entitled, "Roberto S. Benedicto vs. PCGG, et al."). This case was transferred to, and is now pending in the Sandiganbayan.

On December 18, 1986, the petitioner and the PCGG allegedly entered into an agreement to reorganize and reinstate the Boards of Directors of RPN, BBC, IBC and other related media corporations. Two-thirds (2/3) of the members of the reorganized Boards of Directors would be nominees of the PCGG and one-third (1/3) would be nominees of the petitioner. Said boards of directors would "exercise all powers of administration and management of the sequestered companies."

Pursuant to that agreement, a reorganized Board of Directors was elected for each of the Broadcast City corporations.

However, the respondent Board of Administrators refused to relinquish the management, operation, and control of Broadcast City to the reorganized Boards of Directors. This petition for prohibition and mandamus was filed against the Board of Administrators by Benedicto, as controlling stockholder of the "Broadcast City" corporations.

G.R. No. 96087

Teofisto T. Guingona, Jr. vs.

Presidential Commission on Good

Government

On June 30, 1987, the PCGG filed in the Sandiganbayan Civil Case No. 0034, entitled "Republic of the Philippines vs. Roberto S. Benedicto. Spouses Ferdinand and Imelda Marcos, et al." to recover from the defendants (including Roberto S. Benedicto) their ill-gotten wealth consisting of funds and other property which they amassed through breach of trust and abuse of the prerogatives of public office, and in violation of the Constitution and the laws of the land.

On November 3, 1990, the PCGG, through its chairman, David M. Castro, executed a Compromise Agreement with Roberto S. Benedicto ceding to the latter a substantial part of his ill-gotten assets and granting him immunity from further prosecution. On November 25, 1990, the compromise agreement was submitted by the parties to the Sandiganbayan for approval.

By this petition for certiorari and prohibition with prayer for a preliminary injunction and/or restraining order, the petitioner, Senator Teofisto Guingona, Jr., seeks to invalidate the compromise agreement on the grounds that:

1. The PCGG has no power and authority to cede and release, by compromise or otherwise, any ill-gotten assets of the past discredited dictator, his family, relatives and political and business cronies. Its charter tasks it to recover all ill-gotten wealth.
2. The immunity-authority vested in the PCGG under Executive Order No. 14, as amended, is limited to granting immunity from criminal prosecution under the conditions set forth thereunder.

3. Previous compromise agreements entered into by the PCGG adhered to the statutory norm of total recovery of ill-gotten wealth, with zero-retention by the Marcos cronies, and ceded to the latter only those assets which had been substantiated and verified as legitimately and lawfully acquired by them.
4. The Benedicto Compromise Agreement requires for its validity an amendment by Congress of the PCGG's mandate by authorizing it to settle for less than total recovery of ill-gotten wealth.
5. Being a settlement of the Government's claim exceeding P100,000 against Benedicto, the Compromise Agreement requires for its validity prior approval of Congress upon the recommendation of the Commission on Audit and the President, pursuant to Section 20, Chapter 4, Subtitle B, Title I, Book V of the Revised Administrative Code of 1987, Executive Order No. 292.
6. The Compromise Agreement grants Benedicto immunity from criminal prosecution without requiring compliance with the conditions enumerated in Executive Order No. 14, as amended, in relation to Executive Order No. 2.

On November 29, 1990, the Court directed the PCGG to comment on the petition and issued a Temporary Restraining Order to cease and desist from implementing and enforcing the assailed Compromise Agreement.

Commenting on the petition, the PCGG alleged that the rationale for the Compromise Agreement was the Government's desire to immediately accomplish its recovery mission and Mr. Benedicto's desire to lead a peaceful and normal life. Toward this end, the parties decided to withdraw and/or dismiss their mutual claims and counterclaims in the cases pending in the Philippines. The PCGG's authority to enter into compromises involving ill-gotten wealth and to grant immunity in civil and criminal cases had been challenged before, but it was sustained by this Court in "Republic of the Philippines and Jose Campos, Jr. vs. Sandiganbayan, et al." G.R. No. 84895, May 4, 1989, 173 SCRA 72).

On January 15, 1991, this Court granted the PCGG's motion to suspend consideration by the Sandiganbayan of the "Joint Motion to Approve Compromise Agreement" filed in that court by the PCGG and Benedicto.

The petitioner filed a reply to the comment stating that the issue in this case is not the basic authority of the Commission to enter into a compromise settlement of the liabilities and accountabilities of the Marcoses, but the legality of the Compromise Agreement with Benedicto which according to the petitioner, was entered into by the Commission without and beyond its lawful authority and with grave abuse of discretion, for it grants Benedicto final, total, and irrevocable immunity from criminal prosecution, sans compliance with the specific conditions imposed therefor by Section 5 of Executive Order No. 14 as amended, in relation to Executive Order No. 2, to wit:

- (a) that Benedicto should make a "full disclosure" of all "ill-gotten assets" or properties, whether located in the Philippines or abroad, in [his] name as nominee, agent or trustee . . .
- (b) that Benedicto should disclose information "establish [ing] the unlawful manner in which [former President Marcos and his family have] acquired or accumulated the property or properties in question; and
- (c) that Benedicto should promise to testify before the Sandiganbayan when so required. (pp. 181-183, Rollo.)

After considering the petition in G.R. No. 87710 "Benedicto vs. Board of Administrators of Television Stations RPN, BBC and IBC," and the comments of the Solicitor General, the Court, following its earlier rulings in Bataan Shipyard and Engineering Co. (BASECO) vs. PCGG (150 SCRA 181), and succeeding cases, including the more recent rulings in Cojuangco, et al. vs. Roxas, et al. and Cojuangco, et al. vs. Azcuna, et al. (195 SCRA 797), and PCGG vs. Sandiganbayan and Olivares (G.R. No. 92376, August 12, 1991), resolved to grant the petition for prohibition and mandamus.

In *Baseco vs. PCGG*, 150 SCRA 181, 236, this Court ruled that the PCGG is a conservator, not an owner. Hence, it behooves the PCGG to exercise "the least possible interference with business operations or activities" of sequestered, frozen or provisionally taken over property so that if it is not proven that the business enterprise was "ill-gotten," it may be returned to its rightful owner as far as possible in the same condition as it was at the time of sequestration.

"The PCGG may thus exercise only powers of administration over the property or business sequestered or provisionally taken over, much like a court-appointed receiver, such as to bring and defend actions in its own name; receive rents; collect debts due; pay outstanding debts; and generally do such other acts and things as may be necessary to fulfill its mission as conservator and administrator. x x x In the case of sequestered businesses generally (i.e., going concerns, businesses in current operation), as in the case of sequestered objects, its essential role, as already discussed, is that of conservator, caretaker, 'watchdog' or overseer. It is not that of manager, or innovator, much less an owner.

"Now, in the special instance of a business enterprise shown by evidence to have been 'taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos,' the PCGG is given power and authority, as already adverted to, to 'provisionally take [it] over in the public interest or to prevent [its] disposal or dissipation;' and since the term is obviously employed in reference to going concerns, or business enterprises in operation, something more than mere physical custody is connotated; the PCGG may in this case exercise some measure of control in the operation, running, or management of the business itself. But even in this special situation, the intrusion into management should be restricted to the minimum degree necessary to accomplish the legislative will, which is to 'prevent the disposal or dissipation' of the business enterprise." (150 SCRA 181, 236?237.)

In the light of this ruling, which we reiterated in the *Cojuangco* cases, and in view of the reorganization of the Boards of Directors of the RPN, IBC and BBC television stations to administer and manage those sequestered Broadcast City companies, the authority of the Board of Administrators as "trustee and officious manager" of the same corporations, has become *functus officio*. In *negotiorum gestio*, the authority of the officious manager of a property or business is extinguished when the owner demands the return of the same (Art. 2153, Civil Code). With the reorganization of the respective Boards of Directors of the Broadcast City companies, where PCGG controls 2/3 of the board membership, the Board of Administrators has become a supernumerary. The reason for its existence has ceased. This view is bolstered by the fact that Broadcast City is not a purely commercial venture but a media enterprise covered by the freedom of the press provision of the Constitution, and that under our ruling in *Liwayway Publishing, Inc., et al. vs. PCGG, et al.* (160 SCRA 716), the Government, through the PCGG, may not lawfully intervene and participate in the management and operations of a private mass media to maintain its freedom and independence as guaranteed by the Constitution (Art. XVI, Sec. 11, 1987 Constitution).

The petition in G.R. No. 96087 has no merit. The right of parties in a civil action to enter into a compromise for the purpose of avoiding litigation or putting an end to one already commenced is indisputable. The settlement of civil cases in court is authorized and even encouraged by law (Arts. 2028 and 2029, Civil Code). Although there is no similar general rule in criminal prosecutions, this Court held in *Republic vs. Sandiganbayan*, 173 SCRA 72 (1989) that "in the absence of an express prohibition, the rule on amicable settlements and/or compromises on civil cases under the Civil Code is applicable to PCGG cases."

There is no basis for comparison between the compromise agreements which the PCGG made with Campos and Floirendo and its agreement with Benedicto. As pointed out by the PCGG, the Campos/Floirendo agreements were made in May, 1986 and March, 1987, when no case had been filed yet against Campos and Floirendo in the Sandiganbayan, but Floirendo was one of the defendants in the U.S. case in New York against the Marcoses. Since there was as yet no case against Campos and Floirendo in the Philippines, no Philippine court had acquired

jurisdiction to review and approve the PCGG's compromise agreements with them. The compromise agreement with Benedicto was submitted to the Sandiganbayan for approval for the simple reason that the PCGG had filed a civil case against him in the Sandiganbayan.

Prior congressional approval is not required for the PCGG to enter into a compromise agreement with persons against whom it has filed actions for recovery of ill-gotten wealth. Section 20, Chapter 4, Subtitle B, Title I, Book V of the Revised Administrative Code of 1987 (E.O. No. 292) cited by Senator Guingona is inapplicable as it refers to a settled claim or liability. The provision reads:

"Sec. 20. Power to Compromise Claims. - (1) When the interest of the Government so requires, the Commission may compromise or release in whole or in part, any settled claim or liability to any government agency not exceeding ten thousand pesos arising out of any matter or case before it or within its jurisdiction, and with the written approval of the President, it may likewise compromise or release any similar claim or liability not exceeding one hundred thousand pesos, in case the claim or liability exceeds one hundred thousand pesos, the application for relief therefrom shall be submitted, through the Commission and the President, with their recommendations, to the Congress;

"xxx xxx xxx."

(Underscoring supplied.)

The Government's claim against Benedicto is not yet settled, and the ownership of the alleged ill-gotten assets is still being litigated in the Sandiganbayan, hence, the PCGG's Compromise Agreement with Benedicto need not be submitted to the Congress for approval.

Settled is the rule that the writ of prohibition will issue only when it is shown that a tribunal, corporation, board or person whether exercising functions judicial or ministerial, has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion, and there is no appeal nor other plain, speedy, and adequate remedy in the ordinary course of the law (Sec. 2, Rule 65 of the Rules of Court). Since the PCGG's compromise agreement with Benedicto has been submitted to the Sandiganbayan for approval and is still pending determination therein, this petition to prohibit its implementation and enforcement is premature.

WHEREFORE, the petition for prohibition and mandamus in G.R. No. 87710 is granted. The respondent Board of Administrators is ordered to cease and desist from further exercising management, operation and control of Broadcast City and is hereby directed to surrender the management, operation and control of Broadcast City to the reorganized Board of Directors of each of the Broadcast City television stations.

The petition for prohibition against the PCGG in G.R. No. 96087 is hereby dismissed. The temporary restraining order which this Court issued on November 29, 1990 in G.R. No. 96087 is hereby set aside. No costs in both cases.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Padilla, Bidin, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.
Feliciano, J., on leave.

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