

## **FIRST PHILIPPINE HOLDINGS CORPORATION VS. HON. SANDIGAN BAYAN, REPUBLIC OF THE PHILIPPINES, BENJAMIN (KOKOY) ROMUALDEZ, JULIETTE GOMEZ ROMUALDEZ, TRANS MIDDLE EAST (PHILS.) EQUI...**

*G.R. No. 88345. February 01, 1996*

Ponente: PANGANIBAN, J.

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### **PANGANIBAN, J.:**

Should the First Philippine Holdings Corporation (formerly Meralco Securities Corporation) be allowed to intervene and litigate its claim of ownership over 6,299,177 sequestered PCIBank shares of stock in a case pending before the Sandiganbayan, brought by the government for the reconveyance of said shares in its (government's) favor on the ground that they allegedly form part of the ill-gotten" wealth of Benjamin "Kokoy" Romualdez?

This is the main question before us in this original action for certiorari and mandamus with prayer for preliminary injunction and/or temporary restraining order under Rule 65 of the Rules of Court, to review and set aside a Resolution of the respondent Sandiganbayan[1] in Civil Case No. 0035 promulgated on April 3, 1989, the dispositive portion[2] of which reads:

"WHEREFORE, the instant motion for leave to intervene is hereby denied for lack of merit."

and a subsequent Resolution[3] promulgated on April 25, 1989 denying petitioner's motion for reconsideration.

### **The Parties**

Petitioner First Philippine Holdings Corporation, Inc. (formerly Meralco Securities Corporation) is a domestic corporation organized and existing under the laws of the Philippines.

Respondent Sandiganbayan is the Court which issued the Resolutions herein assailed. Respondent-intervenor Republic of the Philippines is represented by the Presidential Commission on Good Government (PCGG, hereafter). Respondents Benjamin (Kokoy) Romualdez and Juliette Gomez Romualdez, who are spouses, and respondent Edilberto S. Narciso, Jr. are all of legal ages and are capacitated to sue and be sued.

Respondent Trans Middle East (Phils.) Equities, Inc. (Equities, hereafter) is a corporation duly organized and existing under the laws of the Philippines.

### **The Facts**

In Civil Case No. 0035 pending before the respondent Sandiganbayan, the PCGG prays[4] for the return, reconveyance, accounting and restitution -with damages - of certain funds and properties which were allegedly acquired by private respondents through "abuse of right and power and through unjust enrichment". The herein petition states that part of these funds and properties are some 6,299,177 sequestered shares of stock in the

Philippine Commercial International Bank (PCIBank) which were allegedly acquired by the respondent spouses, as beneficial owners, in violation of the Anti-Graft and Corrupt Practices Act, as amended, and therefore subject to forfeiture in favor of the Republic for being "unexplained wealth." Said shares were allegedly purchased from petitioner by respondent Romualdez using respondents Equities and Narciso as "his dummy buyers", with "no or negligible 'cash out'".

On April 27, 1988, respondent Court granted the motion for intervention of respondent Equities, which claims ownership of said shares as well as the corresponding rights appurtenant to ownership, like the right to vote the shares and to receive dividends.

On December 28, 1988, petitioner filed its own "Motion for Leave to Intervene and to Admit Complaint in Intervention" in said Civil Case No. 0035 pending before respondent Court, alleging that the PCIBank shares were "obtained x x x by means of fraud and acts contrary to law, morals, good customs and public policy, as well as in breach of fiduciary duty" and thus their acquisition thru a deed of "Sale of Stocks and Escrow Agreement" dated May 24, 1984 is either voidable or void or unenforceable on any of said grounds.[5] Petitioner also alleged that the purchase price of P47,243,827.50 was extravagantly low as the book value at the time of sale was P104,755,313.51 at P16.63 per share. To pay this P47 million, Equities borrowed the exact same amount from SOLOIL, alleged to be another Romualdez front, which in turn borrowed the same, using the facilities of PCIBank itself. Petitioner therefore asked in its proposed Complaint in Intervention[6] that said shares be returned to it.

In the aforementioned assailed Resolutions, the respondent Court denied petitioner's motion for intervention because -

- 1) The "right sought to be enforced x x x aside from being contingent, is not only personal between FPHC (petitioner herein) and Trans Middle East Philippine Equities and Edilberto S. Narciso, Jr., but also intra-corporate in nature x x x"[7]- The Sandiganbayan's jurisdiction ""cannot extend to intra-corporate controversies nor to the nullification of sale between two or more private persons nor to cases filed by private persons against perceived cronies" and
- 2) The intervention "will unduly delay the proceedings and prejudice the adjudication of the rights of the original parties."

After the respondents filed their respective comments, the Court, in a Resolution dated September 19, 1989 "Resolved to (1) TREAT the respondents' comment as ANSWERS to the petition; (2) give DUE COURSE to the petition and, (3) consider this case CALENDARED for deliberation." Following his assumption to office as a member of this Court, and after the Court deliberated and discussed the petition and the aforesaid pleadings filed by the parties, as well as petitioner's supplemental memorandum, the undersigned ponente was assigned to write this Decision.

#### The Parties' Submissions

In his Comment, respondent Narciso manifested that he "has no personal claim or interest to any and all (of) the shares of PCIBank subject of the Complaint in Intervention x x x (nor) x x x on the unpaid price for these shares x x x." [8] He affirmed that respondent Romualdez is the owner of Trans Middle East (Phils.) Equities, Inc., which in turn owns the disputed shares.

Respondent Equities alleged in its Comment that the Sandiganbayan committed no abuse of discretion but, on the contrary, exercised "judiciousness and utmost and deliberate care" in its ruling. It added that petitioner, unlike Equities and Narciso, is not a registered owner of the PCIBank shares and "will become its (sic) owner only if the

sales document of the shares in favor of its present owners is annulled." Hence, it has no "legal interest" in Civil Case 0035.[9]

The Solicitor General, in his Comment[10] submitted on August 8, 1989, stated that petitioner did not have a "legal interest" to intervene because "(t)he judgment would merely render defendant Benjamin Romualdez and his corresponding co-defendants personally obligated to either return or reconvey said shares of stock to public respondent, Republic of the Philippines or to pay to it the full value thereof with interest. The execution or implementation of the (said) judgment would not bar petitioner's cause of action, if any, to declare void the 'Sale of Stock and Escrow-Agreement' dated May 24, 1984."

[Meanwhile, on August 17, 1989, the Court issued a Resolution, inter alia, to "DISPENSE with the comment of respondents Benjamin Romualdez and Juliette Gomez Romualdez."]

Later, on December 5, 1990, the Solicitor-General filed a "Withdrawal of Appearance with Reservation." [11] While the PCGG told this Court in an undenominated pleading filed on February 12, 1991[12] that "it will handle the captioned cases under the charge of the undersigned Commissioner (Maximo A. Maceren) and/or any of the following private attorneys: Eliseo B. Alampay, Jr., Mario E. Ongkiko, Mario Jalandoni and such other attorneys as it may later authorize," it did not actually file any subsequent pleading.

On December 2, 1991, petitioner filed a Supplemental Memorandum containing a summation of its position.

In its Second Motion for Early Resolution, filed on July 12, 1993, petitioner informed this Court that pursuant to respondent Court's order allowing respondent Equities "to vote the shares in question registered in its name, Mr. Ferdinand Martin G. Romualdez x x x was elected as a member of the Board of Directors of the PCIBank x x x".

The issues

On the basis of the foregoing submissions, as well as the allegations of the petition and the assailed Resolutions, the issues in this case may be summarized as follows:

- 1) Does petitioner have a legal interest in Civil Case No. 0035, particularly in the "return, reconveyance, accounting and restitution -with damages" of the 6,299,177 PCIBank shares in favor of the Republic?
- 2) Does the Sandiganbayan have jurisdiction to declare as void the sale of such shares to respondents Narciso and Equities as alleged dummies of respondent Romualdez and to return them to petitioner?
- 3) If the answer to both questions is in the affirmative, did respondent Court abuse its discretion in denying the Motion for Intervention, and may the writ of mandamus be issued to compel it to grant such motion?

The First issue: Does FPHC Have the Right to Intervene?

To decide this question it is necessary to refer to Rule 12, Section 2 of the Rules of Court which allow interventions in judicial proceedings, as follows:

"Sec. 2. Intervention. - 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.

"(a) Motion for intervention. - A person desiring to intervene shall file a motion for leave of court with notice upon all the parties to the action.

"(b) Discretion of court. - In allowing or disallowing a motion for intervention, the court, in the exercise of discretion, shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the

rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding.

"(c) Complaint or answer in intervention. - 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 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.

"(d) Time. - Unless a different period is fixed by the court, the complaint or answer in intervention shall be filed within ten (10) days from notice of the order permitting such intervention."

Intervention is a remedy by which a third party, not originally impleaded in a proceeding, becomes a litigant therein to enable him to protect or preserve a right or interest which may be affected by such proceeding. Its purpose, according to Francisco, is "to settle in one action and by a single judgment the whole controversy (among) the persons involved"[13]

Under the rule above-quoted, intervention shall be allowed when a person has:

- \* a legal interest in the matter in litigation;
- \* or in the success of any of the parties
- \* or an interest against the parties
- \* or when he is so situated as to be adversely affected by a distribution or disposition of property in the custody of the court or of an officer thereof

We have no doubt that petitioner has a legal interest in the shares which are the subject of the controversy. At the very least, it is "so situated as to be adversely affected by a distribution or disposition of the (sequestered shares) in the custody of the court".

In the Second Amended Complaint in Civil Case No. 0035 before the Sandiganbayan, the PCGG prays that, among other properties, the shares in question should be returned and reconveyed to it. Respondent Equities opposes the PCGG on the ground that it is the true owner thereof in its own right and name. On the other hand, petitioner claims that said shares belong to it, not to respondent Romualdez or Equities. Clearly, therefore, petitioner would be adversely affected by any judgment therein distributing or disposing of the property, whether to PCGG or to Equities.

Unquestionably, the shares are sequestered and thus are "in the custody of the court," because by sequestration properties are placed in the control of a court to preserve them and/or to prevent their sale, encumbrance or disposition pending the determination of the legality or illegality of their acquisition and their true ownership. No such final determination is possible unless the parties who have legitimate but conflicting claims are made parties or, as in this case, allowed to intervene in the main action.

The Second issue: Does Sandiganbayan

Have Jurisdiction?

The more critical issue is: under the present circumstances, does the Sandiganbayan have jurisdiction over the subject matter? Otherwise stated, does the Sandiganbayan have the legal authority to declare as void the sale of the disputed PCIBank shares in favor of respondents Narciso and Equities as alleged dummies of respondent Romualdez? In addition, will Sandiganbayan's assumption of jurisdiction not unduly delay the proceedings in Civil Case No. 0035? Finally, will not the interests of the parties be better ventilated and protected in a separate

proceeding, as suggested by the assailed Resolution?

The jurisdiction of the Sandiganbayan has been clarified in the case of *PCGG vs. Hon. Emmanuel G. Peña, etc., et al.*,<sup>[14]</sup> thus:

"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."

This ruling was reiterated in six (6) subsequent cases<sup>[15]</sup> which were decided jointly and where the Court held:

"xxx (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."

In *Republic vs. Sandiganbayan*,<sup>[16]</sup> this Court, speaking through Justice Teodoro R. Padilla, resolved that the respondent Court had jurisdiction to grant a motion for intervention to file an answer in a suit (similar to the case *a quo*) pending before the respondent Sandiganbayan for the reconveyance of (some lots and) shares of stock in the Bacolod Real Estate Development Corporation. Therein, the Court aptly stated:

"Intervention is not an independent action, but is ancillary and supplemental to an existing litigation. 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."

A few months later, in another case also titled *Republic vs. Sandiganbayan*,<sup>[17]</sup> this Court held that respondent Sandiganbayan had jurisdiction to grant a motion for leave to file a complaint in intervention "anchored on (movant's) claim of ownership over two (2) parcels of land under sequestration." The Court said:

"x x x The complaints in intervention are mere incidents of the main action which as We shall show later, necessarily fall under the Sandiganbayan's exclusive and original jurisdiction. x x x"

xxx xxx xxx

"It is therefore indubitable that in view of the extra-ordinary nature of sequestration, parties who claim ownership or interest in the subject matter of sequestration proceedings before the Sandiganbayan have no other recourse than intervention in the litigation before the Sandiganbayan, whose decision is subject to review on certiorari exclusively by this Court, for no other court or forum has jurisdiction over proceedings for the recovery of ill-gotten wealth."

Indeed, in the face of such previous rulings, the inescapable conclusion is that the instant intervention must be allowed otherwise the Sandiganbayan will not be able to determine the ultimate owner of the shares under sequestration.

In understanding the extent of the jurisdiction of respondent Court over cases involving the validity of sales contracts which ordinarily would be within the powers of ordinary courts to resolve, or which normally are taken

cognizance of by an administrative agency like the Securities and Exchange Commission tasked to handle intra-corporate disputes, it helps to keep in mind the rationale for such exclusivity of jurisdiction, thus:

"The rationale of the exclusivity of such jurisdiction is readily understood. Given the magnitude of the past regime's 'organized pillage' and the ingenuity of the plunderers and pillagers with the assistance of the experts and best legal minds available in the market, it is a matter of sheer necessity to restrict access to the lower courts, which would have tied into knots and made possible the Commission's gigantic task of recovering the plundered wealth of the nation, whom the past regime in the process had saddled and laid prostrate with a huge \$27 billion foreign debt that has since ballooned to \$28.5 billion." (*italics supplied*).[18]

Indeed, the probable consequences of respondent Court's suggestion that petitioner's rights be litigated in a separate proceeding are not conducive to orderly judicial process and would violate the principles laid out against multiplicity of suits, thus: petitioner would have to implead in such separate action the same parties as in Civil Case No. 0035; the parties would in all likelihood have the same causes of action, defenses and evidence; and worst, there is always the possibility of one court reviewing the findings of another and rendering conflicting and confusing judgments.

As held in an unpublished Resolution of the Court in *Republic vs. Sandiganbayan*: [19]

"The petitioner's contention that the claims of the private respondent should be litigated before the regular courts is obviously untenable in the light of the above-quoted decision (*PCGG vs. Peña*) and the principle against multiplicity of suits."

Moreover, it would not be fair and just to allow Equities (as in fact it had been allowed) to intervene simply because stock certificates covering some of the subject shares were registered in its name and none in the name of petitioner. Basic it is that the certificate of stock is not the stock itself, but only one evidence thereof. And it is possible to own shares of stock without having a certificate issued in the name of such shareholder.

"A certificate of stock, which is a written acknowledgment that a named person is the owner of a designated number of shares of corporate stock, is merely evidence of such ownership and of the rights and liabilities resulting therefrom, and is not the stock itself x x x" (18 C.J.S. Sec. 258 a, p. 721.)

xxx xxx xxx

"Unless the statute otherwise provides in express terms, and, as stated hereinafter, subject to qualification by express agreement and in the case of contracts for the sale of stock and subscriptions for preferred stock, the general rule is that it is not essential that a certificate of stock shall have issued in order to create the relation of stockholder and confer all the rights and impose all the liabilities of a stockholder, x x x since, x x x a certificate of stock is not the stock itself, but is merely representative thereof and evidence of the title thereto.

"x x x From the doctrine stated in the preceding paragraph it follows, x x x in the absence of charter or statutory provision or agreement to the contrary, that an owner of shares without a certificate may vote at corporate elections, and may as a stockholder give the consent required by statute to validate a mortgage or other corporate act; that a receipt for a subscription to stock of a corporation in process of organization has the same effect as a certificate; that the issue of a certificate is not generally necessary to render a subscriber and stockholder liable on his subscription to the corporation x x x; that a vested subscription right, x x x is assignable by the subscriber although no certificate of stock has been issued, and, x x x that there may be an equitable assignment and transfer of stock which, if recognized by the corporation, will constitute also a legal transfer, without the delivery of any certificate, and even without any certificate having been issued by the corporation; x x x" (18 C.J.S. Sec. 259, pp. 725-726.)

"It is well settled that a certificate of stock in a corporation is not the stock itself. It is the mere evidence of the holder's ownership of the stock and of his rights as a stockholder to the extent specified therein, just as a

promissory note is merely the evidence of the debt secured thereby, and as title deeds are merely the evidence of the ownership of the land. x x x 'The right of stock may exist entirely separately and independently of the certificates,' and possession of a certificate is not essential to ownership of stock. Thus title to the certificate does not necessarily carry with it title to the stock. And it follows that the issue of certificates is not necessary either to the existence of a corporation or to make one a stockholder therein." (Fletcher, Cyclopaedia of the Law of Private Corporations, Vol. 11, Sec. 5092, pp. 55-61.)

That allowing the intervention may entail some delay in the proceedings in Civil Case No. 0035 is of no moment. After all, there may be even longer delays and, worse, confusion in processes and rulings, and uncertainty in results, if petitioners were to be authorized and/or required to file a separate action to litigate the herein matter.

The Third Issue: Will Mandamus Lie?

In resolving to deny petitioner's motion for intervention, respondent Court abused its discretion because, clearly, the question of ownership of the shares under sequestration is within its jurisdiction, being an incident arising from or in connection with the case under its exclusive and original jurisdiction. Indeed, as held in the above-mentioned cases, the respondent Court has jurisdiction to entertain both complaints and answers in intervention over properties under sequestration by the PCGG. With the denial of its intervention, petitioner is deprived of a remedy in law to recover its property alleged to have been taken illegally from it.

As provided under Rule 12, Sec. 2(b), intervention shall be allowed "in the exercise of discretion" by a court. Ordinarily, mandamus will not prosper to compel a discretionary act. But where there is "gross abuse of discretion, manifest injustice or palpable excess of authority" equivalent to denial of a settled right to which petitioner is entitled, and there is no other plain, speedy and adequate remedy, the writ shall issue.

These exceptions were recognized by this Court in *Kant Kwong vs. PCGG, et al.*, [20] as follows:

"Although, as averred by respondents, the recognized rule is that, in the performance of an official duty or act involving discretion, the corresponding official can only be directed by Mandamus to act but not to act one way or the other, 'yet it is not accurate to say that the writ will never issue to control his discretion. There is an exception to the rule if the case is otherwise proper, as in cases of gross abuse of discretion, manifest injustice or palpable excess of authority.'"

In *Antiquera vs. Baluyot, et al.*, [21] such exceptions were allowed, "because the discretion must be exercised under the law, and not contrary to law."

ACCORDINGLY, the petition is GRANTED; the questioned Resolutions are hereby REVERSED and SET ASIDE, and the respondent Court is DIRECTED to grant the petitioner's motion for leave to intervene in Civil Case No. 0035 and to admit the proposed complaint in intervention. No costs.

### **SO ORDERED.**

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Hermosisima, Jr., concur.

Romero, J., No part. Husband was PCGG Commissioner when Civil Case No. 0035 was filed.

[1] Second division, composed of J. Romeo M. Escareal, Chairman and ponente, and JJ. Jose S. Balajadia and Cipriano A. Del Rosario.

[2] Rollo, p. 34.

[3] Rollo, pp. 36-37.

[4] See Second Amended Complaint in Civil Case No. 0035, Sandiganbayan; Rollo, pp. 38-85.

[5] See Rollo, pp. 96-104; atp. 98.

[6] Rollo, pp. 105-125.

[7] Rollo, p. 32.

[8] Rollo, pp. 171-174, at p. 172.

[9] See Comment, Rollo p. 178, et. seq.

[10] Rollo, p. 180 et. seq.

[11] Rollo, p. 190.

[12] Rollo, pp. 197-208.

[13] Francisco, Revised Rules of Court, 1973 ed., p. 720.

**[14] 159 SCRA 556(1988).**

[15] Soriano III vs. Yuzon, 164 SCRA 226, at p. 242; (1988).

[16] 182 SCRA 911 (February 28, 1990).

[17] 184 SCRA 382 (April 17,1990).

[18] PCGG vs. Peña, supra, at p. 566.

[19] G.R. No. 83746 (February 23, 1989).

[20] 156 SCRA 222, at 232 (December 7, 1987).

[21] 91 Phil. 213, at 220 (May 5, 1952).

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