

**REPUBLIC OF THE PHILIPPINES (REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT),
PETITIONER, VS. SANDIGANBAYAN, SECOND DIVISION, AND
REBECCO PANLILIO, RESPONDENTS.**

G.R. No. 89425. February 25, 1992

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

In the special civil action of certiorari and prohibition at bar, this Court is asked "to categorically draw the distinctions between i) the Sandiganbayan's exclusive jurisdiction to determine the judicial question of ownership over sequestered properties and ii) the incidents of the exercise by the PCGG of its purely administrative and executive functions as conservator of sequestered properties." It is theorized "that EOs [Executive Orders] 1, 2, 14 and 14-A have never been intended to convert the Sandiganbayan into a super-commission, reviewer, supervisor, much less an overseer of the PCGG" and give it the power to "strike down even mere administrative and conservatory acts of the PCGG **."

This action originated from a writ issued on May 31, 1986 by Commissioner Mary Concepcion Bautista of the Presidential Commission on Good Government (PCGG), placing three (3) firms under sequestration: (a) Silahis International Hotel, (b) Hotel Properties, Inc., and (c) Philroad Construction Corporation.[1]

This was followed slightly more than a year later by the filing by the PCGG with the Sandiganbayan of a complaint involving said companies and one other, Philippine Village Hotel. The complaint was for "reversion, reconveyance, restitution, accounting and damages;" named twelve (12) persons as defendants: Rebecca Panlilio, Ferdinand E. Marcos, Imelda R. Marcos, Modesto Enriquez, Trinidad Diaz-Enriquez, Erlinda Enriquez-Panlilio, Leandro Enriquez, Don Ferry, Roman A. Cruz, Jr., Guillermo Gastrock, Ernesto Abalos, and Gregorio R. Castillo; and claimed, essentially, that said corporations, "together with their assets, shares of stocks, effects, evidence and records," had been "illegally acquired by the defendants in unlawful concert with one another and with gross abuse of power and authority." [2] The defendants took issue with this claim in the answer filed by them in due course.[3]

On July 28, 1989, the PCGG issued a Mission Order (No. AD-89-51) creating a so-called "Management Committee" headed by one Antonio Villanueva and authorizing it, among other things, to "completely take over the management and operations of Silahis International Hotel, preparatory to calling a Special Stockholders' Meeting in accordance with Sec. 3, Article II of the By-Laws in relation to Presidential Memorandum dated June 26, 1986." [4] The mission order stated that the take-over was meant "to protect the interest of the government" in view of "the state of labor/management situation, brought about by the presence of undesirable elements of dubious intentions causing the occurrence of incidents of violence and undue disruption of the business operations of the hotel * *." On the strength thereof the Management Committee took over the management and operations of the Silahis Hotel.

Rebecca Panlilio forthwith filed with the Sandiganbayan a "Motion for Injunction with Application for Restraining Order" under date of August 3, 1989. The motion alleged that such a take-over was not within the scope of the writ of sequestration; that despite its sequestered status, the Silahis Hotel had "achieved a business turn-around at the start of last year and business since then ** become profitable;" that on July 18, 1989, as a result of a deadlock in CBA negotiations with the union representing its employees, the union declared a strike, but there were on-going negotiations for settlement of the controversy; that the take-over authorized by the mission order was effected with abusive and unnecessary force; and that in truth there was no legal or factual basis for the take-over.[5]

The PCGG, for its part, asserted that it had acted in the exercise of its "primary administrative jurisdiction" and hence, the Sandiganbayan had no jurisdiction over the sequestration and take-over of Silahis Hotel.

Panlilio's motion was heard by the Sandiganbayan on August 11, 1989 after which, on August 14, 1989, the Sandiganbayan (Second Division) promulgated a Resolution "enjoining the PCGG, its Management Committee, or any of its officers, agents or representatives from further implementing Mission Order No. AD-89-51 or from calling any Special Stockholders' Meeting, effective upon receipt (t)hereof and until further orders * *," since "otherwise, the Court will be tolerating, if not condoning, an apparent violation of the rights of ** defendant-movant, not justified by demonstrably tenable grounds, (petitioner being) oblivious of its mandated powers as a conservator, caretaker, watchdog or overseer, and in derogation of this Court's jurisdiction and authority as clearly outlined in the cases of BASECO and PEÑA (G.R. Nos. 75885 and 77663, respectively) **." The Sandiganbayan stated that defendant-movant Panlilio had "presented documentary evidence (Exhibits 1 to 3-Motion) tending to show that the takeover of the management and operation of the Silahis International Hotel was not due to any disposal or dissipation of its assets, as in fact the Hotel is a highly viable and productive enterprise despite the fact of its sequestration," and that "the PCGG ** (had) not presented countervailing evidence * * but on the contrary, had admitted * * the factual basis for the issuance of Mission Order No. AD 89-51, which is ** that there was labor unrest among the employees **," insisting merely that it had acted and was acting "in the exercise of its primary administrative jurisdiction" and that the Sandiganbayan had "no jurisdiction over the factual and legal issues involved in the instant incident." [6]

That resolution of August 14, 1989 was challenged before this Court on August 16, 1989 through a petition for "certiorari, prohibition with urgent prayer for the issuance of writ of preliminary injunction and temporary restraining order" filed in behalf of the Republic, represented by the PCGG. The Court required the respondents to file comment thereon, in a Resolution dated August 22, 1989.

Before respondents could file their comment, petitioner PCGG presented on August 29, 1989 a "Second Urgent Motion for Issuance of a Temporary Restraining Order" (in reiteration of the application incorporated in its petition). Acting thereon, this Court promulgated a Resolution on September 5, 1989 which, after observing that -

a) "The motion sets out particular facts demonstrating dissipation on no mean scale of the funds of the (sequestered) Silahis International Hotel by 'the respondent Panlilio's group,' which controls said corporation * * ;" and

b) "Concededly, these facts could justify the action sought to be taken by the PCGG, i.e., the immediate take-over of the management and operation of the Silahis Hotel with a view to the preservation and prevention of dissipation and wastage of its funds * * (but) as the Solicitor General acknowledges, with commendable candor, these 'facts have not been presented at the Sandiganbayan during the hearing * * because a thorough examination of the books of accounts of Silahis hotel had not been completed yet at that time;' (hence, it is) neither reasonable nor fair to set aside or prevent enforcement of the injunctive order dated August 14, 1989 of the Sandiganbayan (Second Division) on the basis of facts not presented or brought to be proved before it * * ,

(while on the other hand) it is needful for the petitioner to be accorded full opportunity to adopt and carry out the measures it deems proper to prevent dissipation and loss of property and assets over which it lays claim,"

resolved:

- 1) to refer said urgent motion to the Sandiganbayan "to be considered by the latter as a motion for reconsideration of the Order dated August 14, 1989" and
- 2) to "direct said Court to forthwith schedule a hearing, with notice to all the parties, for the purpose of receiving the evidence of the petitioner in proof of the facts set forth in the motion and such others as it may deem material and relevant, as well as such proofs as the respondents may themselves wish to submit on the issue and thereafter, and with all deliberate dispatch, receive such evidence and on the basis thereof, resolve whether or not it will maintain, or lift or modify the Order of August 14, 1989, and then report the action thus taken to this Court as soon as possible." [7]

The Sandiganbayan thereupon scheduled on September 15, 1989 a hearing for the reception of PCGG's evidence, conformably with this Court's Resolution of September 5, 1989 -- although as it was to point out later, "the evidence appearing in the attachments to ** (its petition with this Court) had already been submitted (by the PCGG) at the formal resumption of hearing on August 25, 1989," contrary to its subsequent claim that "a thorough examination of the books of accounts of Silahis Hotel had not been completed yet at that time." [8] In any event, the matter was heard on September 15, 18 and 20, 1989. PCGG "presented additional testimonial evidence thru ** Commissioner David Castro and rested its case with the admission of Exhibits I to K, inclusive, with sub-markings (and) defendant Panlilio presented testimonial evidence thru Jocelyn Zuluaga, Chief Accountant of the Silahis Hotel ** after which (he) rested anew with the admission of Exhibits 6 to 12, inclusive **." [9]

The Sandiganbayan thereafter resolved the incident in a Resolution promulgated on October 27, 1989, a copy of which it transmitted to this Court on October 30, 1989. In that resolution the Sandiganbayan set forth the following conclusions, to wit:

1. Mission Order No. AD-89-51 contains no averment whatever "that defendant Panlilio had committed acts of dissipation of the hotel's assets which would justify the takeover," the ground explicitly stated therein being, "the state of labor/management situation, brought about by the presence of undesirable elements of dubious intentions causing the occurrence of incidents of violence and undue disruption of the business operations of the hotel."
2. The strike was however "finally settled on August 19, 1989, with defendant Panlilio and the union agreeing on the latter being granted a total economic package of P19.35 Million." Moreover, "hotel operations during the strike were not seriously affected thereby, with room occupancy averaging 76% daily compared to 77% for 1988."
3. No dissipation of corporate assets has been committed, PCGG's evidence to establish that fact being "completely off-tangent, self-serving, concocted and incredible, if not illogical."
4. Silahis' continuing compliance with its agreement with Hotel Properties, Inc. (HPI) in 1985 "cannot be deemed to constitute dissipation," both firms being "under sequestration and (hence) the interests of the Government ** are fully and adequately protected," and said compliance never having been "questioned or objected to by PCGG or its Fiscal Agents/Asset Monitors" in either corporation. On the other hand, "(b)etween July 31, 1989 to August 18, 1989, or in less than three (3) weeks, PCGG's representatives had incurred guest check expenses amounting to P149,001.49 ** (or) "7,400.00 daily."
5. Five (5) vital facts are established by Panlilio's proofs, without denial by PCGG, viz.:

- a. Both Silahis and HPI are sequestered corporations;
- b. PCGG has ASSET MONITORS in both corporations;
- c. PCGG is furnished copies of Silahis' annual financial statements;
- d. All payments by Silahis to HPI are coursed thru the head of Silahis Asset Monitors; and
- e. All said payments "are in accordance with the specified schedule of payments reflected in the Agreements between HPI and Silahis."

6. There is no evidence of any irregularity in "the grant of cash advances to Silahis' officers," this "being common business practice among corporate firms;" besides the cash advances "are not substantial enough to warrant jumping to the conclusion that corporate assets were being dissipated.

7. That Silahis' assets were "being carefully protected and nurtured pending judicial determination and disposition" is shown by the fact that it (a) had made payments to HPI totalling P60,000,000.00 as of December 31, 1988, and the additional amount of P26,000,000.00 as of June, 1989; (b) had undertaken capital improvements and renovations during the same period amounting to P29,400,000.00 without incurring additional or new loan obligations or defaulting on obligations due; and (c) had "even managed to settle its on-going strike by granting a total economic package of P19,500,000.00 to the hotel union **."

Upon these factual premises, the Sandiganbayan, as it had in its Resolution of August 14, 1989, [10] asserted its "authority and jurisdiction ** invoked by defendant-movant, contrary to the denial thereof by the PCGG and counsel for plaintiff," and in the exercise thereof ruled as follows:

- 1) that "Mission Order No. AD-89-51 is ** null and void ab initio;"
- 2) that "the takeover of the management and operation by the PCGG's Management Committee of the Silahis International Hotel on July 31, 1989 is ** arbitrary and illegal;" and
- 3) that "the PCGG and said Management Committee are ** to divest themselves of any participation and/or involvement hereafter in the management and operation of said Hotel, except as provided for under the guidelines enunciated in the BASECO and PEÑA cases."

PCGG then sought leave to file, as it did file on November 23, 1989, an "Urgent Supplemental Petition" for certiorari and prohibition assailing the Sandiganbayan's Resolution of October 27, 1989 essentially because -

" * * instead of confining itself to the Order of this Honorable Court dated September 5, 1989, directing it 'to resolve whether or not it will maintain, lift or modify (its) Order of August 14, 1989,' rendered a Resolution determining and upholding its jurisdiction over the preservation of the sequestered asset and thus resolving the very issue raised in the petition filed by PCGG before this Honorable Supreme Court, and worse, even declaring the subject Mission Order void ab initio, which declaration is based not only on inferences that are manifestly mistaken and/or on misapprehension of facts, but also significantly on a misappreciation of the law **."

On this Court's requirement, comment was submitted by the private respondents on February 9, 1990 on the "Urgent Supplemental Petition" and a reply to said comment, by the PCGG. To the reply a rejoinder was, by this Court's leave, filed by the private respondents.

The Solicitor General subsequently presented a "Withdrawal of Appearance with Reservation" dated December 3, 1990; and by Resolution dated January 17, 1991, this Court resolved to allow said withdrawal of appearance in the case at bar (and in others specified in the withdrawal), "with the reservation, conformably with PD No. 478,

Executive Order No. 292, as well as the doctrine laid down in 'Orbos vs. Civil Service Commission, et al.,' G.R. No. 92561, September 12, 1990, to submit his comment/observation on incidents/matters pending with this court, if called for by circumstances in the interest of the government, or whenever so required by this Court."

The PCGG's complaint that the Sandiganbayan had gone beyond the task assigned to it by this Court in the Resolution of September 5, 1989 when it declared itself to be possessed of jurisdiction to determine the validity of Mission Order No. 89-51 and did declare the same to be void, is somewhat puzzling. A reading of the Sandiganbayan's Resolution of October 27, 1989 shows that it is merely a substantial reaffirmance of its earlier Resolution of August 14, 1989.

In that Resolution of August 14, 1989, the Sandiganbayan (a) overruled the PCGG's theory that it had acted and was acting "in the exercise of its primary administrative jurisdiction and that ** (the Sandiganbayan) has no jurisdiction over the factual and legal issues involved in the instant incident, and (b) declared that Mission Order No. AD-89-51 had no factual or legal basis to support it since the PCGG had "not presented any countervailing evidence to refute the evidence" of dissipation of assets by which said Mission Order might be justified, or of the absence of a labor unrest among the employees of the Silahis Hotel.

These are basically the same dispositions made in the Resolution of October 27, 1989, after the Sandiganbayan had, at this Court's behest, received evidence which the PCGG had represented it had been unable to present at the time of the hearing before the Sandiganbayan of Panlilio's motion for injunction or temporary restraining order. The specific instruction to the Sandiganbayan was to "receive such evidence and on the basis thereof, resolve whether or not it will maintain, or lift or modify the Order of August 14, 1989 **." [11] Now, in this Resolution of October 27, 1989, the Sandiganbayan after receiving additional proofs of the PCGG and of Panlilio, and studying, analyzing and weighing them, determined to "maintain" its Order of August 14, 1989, but modified it in the sense that it spelled out in greater detail its reasons for holding itself to be vested with jurisdiction to act on and adjudicate the matters pending before it as well as the evidentiary foundations for its factual conclusions.

In both resolutions there was a clear declaration of the lack of basis of Mission Order No. 89-51, except only that what was implicit in the Resolution of August 14, 1989 was made explicit in the Resolution of October 22, 1989, i.e., that said mission order was null and void because there was no factual or legal basis therefor.

The PCGG insists that under the law [12] the Sandiganbayan has no jurisdiction to review its acts of sequestration or provisional take-over of property or assets it is charged with recovering as illegally acquired by former President Marcos, his immediate family, relatives, subordinates and close associates. It opines that it may administer the properties placed under its custodia legis," and its acts "may not be interfered with by the courts;" this, in accordance with the "well-recognized principle adverted to in PCGG v. Peña, [13] "that purely administrative and discretionary functions may not be interfered with by the courts," a principle that holds "specially true" in the administrative "sequestration cases affected by the Commission * *." [14]

Peña, it seems, has been misread. For Peña was quick to add that while "the findings by administrative or quasi-judicial agencies like the Commission are entitled to the greatest respect and are practically binding and conclusive, like the factual findings of the trial and appellate courts," those findings may and should be reviewed and reversed or nullified "where they are patently arbitrary or capricious or are not supported by substantial evidence." [15]

In other words, neither in Peña nor in any other case did this Court ever say that orders of sequestration, seizure or take-over of the PCGG or other acts done in the exercise of its so-called "primary administrative jurisdiction" are beyond judicial review, or beyond the power of the courts to reverse or nullify. It is true, of course, that those acts are entitled to much respect, the findings and conclusions motivating and justifying them should be accorded great

weight "like the factual findings of the trial and appellate courts," and such findings and conclusions of the PCGG may not be superseded and substituted by the judgment of the courts. But obviously the principle does not and cannot sanction arbitrary, whimsical, capricious or oppressive exercise of power and discretion on the part of the PCGG, or its performance of acts without or in excess of its authority and competence under the law. And in accordance with applicable law, review of those acts, and correction or invalidation thereof, when called for, can only be undertaken by the Sandiganbayan, which has exclusive original jurisdiction over all cases regarding 'the funds, moneys, assets and properties illegally acquired or misappropriated by former President Ferdinand E. Marcos, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates, business associates, dummies, agents or nominees,'" this being the doctrine laid down in Peña, viz.:

"* * all cases of the Commission regarding 'the Funds, moneys, Assets and Properties Illegally Acquired or Misappropriated by Former President Ferdinand E. 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."

There can be no doubt that such incidents as arise or result from or are otherwise connected with or related to any such action instituted in the Sandiganbayan include acts of sequestration, seizure, or provisional take-over of particular property. The rule is in nowise altered by the fact that the sequestration, seizure or take-over preceded the commencement of action in the Sandiganbayan involving the property subject thereof.

It may not be amiss to stress that Peña is entirely consistent with *Basec v. PCGG*, 150 SCRA 181 (1987) which requires that sequestration, etc., in order to be valid must have factual basis and must accord due process to the parties thereby affected -- that said remedies are not meant to create a permanent situation as regards the property subject thereof, or divest ownership or rights, that they are in fact merely provisional and temporary and subsist only until ownership is finally judicially determined.

Given the character of the present proceeding, review of the disputed factual findings of the Sandiganbayan as if on ordinary writ of error is beyond the competence of this Court, which is bound by such findings. This Court has consistently ruled that it is not a trier of facts, and the only question it can consider here is whether in making those findings, the Sandiganbayan acted without or in excess of its jurisdiction, or with equivalent grave abuse of discretion.^[16] The record clearly shows that the parties, the PCGG, as well as private respondent had full opportunity to disclose their evidence, develop and present their arguments, if not before the issuance of the first Sandiganbayan Resolution of August 14, 1989, afterwards when at the Court's behest the issue was reheard as if upon a motion for reconsideration; and the later Resolution of October 27, 1989 shows with equal clarity that said Tribunal exhaustively studied, assessed and evaluated such evidence and arguments in reaching the same conclusions as in its earlier disposition. It may be, as the PCGG contends, that the Sandiganbayan erred in its weighing of the evidence as supportive of private respondent's contentions rather than those of said petitioner. But simple error, without more, does not qualify as grave abuse of discretion correctible in a special civil action of certiorari.

What has been stated and ruled makes it unnecessary to take up the last motion in the record, whereby private respondent, invoking this Court's ruling in *PCGG vs. International Copra Export Corporation*,^[17] would also have this proceeding dismissed as already moot and academic on the ground that the failure of the PCGG to implead Silahis International, Inc. and Hotel Properties, Inc. in Civil Case No. 014 of the Sandiganbayan within the six-month period fixed in Article XVIII, Section 26 of the Constitution, had the effect of automatically lifting the sequestration on those firms.

WHEREFORE, the petition and supplemental petition are DISMISSED, without pronouncement as to costs.

Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.

Feliciano, J., no part.

[1] Rollo, pp. 32-33 (Annex A, petition)

[2] Id., pp. 6, 34-57 (Annex B, petition)

[3] Id., p. 6

[4] Id., pp. 58-59 (Annex C, petition). The Mission Order was signed "For the Commission" by Commissioners David M. Castro, Rosalio A. de Leon and Augusto E. Villarin (Officer-In-Charge).

[5] Id., pp. 60-75 (Annex D, petition)

[6] Id., pp. 80-81 (Annex G, petition). N.B. The PCGG asserts that the hearing was held despite its plea that it be given time to file its opposition to the motion; that the Sandiganbayan granted it up to August 18, 1989 to file its opposition; and that it did file the opposition on August 17, 1989 (Rollo, pp. 9-10, 82-98 [exclusive of annexes]). On the other hand, as hereafter pointed out by the Sandiganbayan, after its Resolution of August 14, 1989 was issued, it did in fact, and compliance with this Court's Resolution of September 5, 1989, *infra*, hear the matter anew and receive the evidence of petitioner and private respondent thereon.

[7] Id., pp. 255-256

[8] In its Order of October 30, 1989: Rollo, pp. 359, 364

[9] Rollo, pp. 359, 365-366

[10] SEE footnote 6 and related text, *supra*

[11] Italics supplied

[12] Executive Order No. 1 dated Feb. 28, 1986

[13] 159 SCRA 556 (1988)

[14] Rollo, pp. 434-436

[15] Id., p. 435; italics supplied

[16] *Ilas vs. NLRC*, 193 SCRA 682; *Trans-Orient Overseas Contractors, Inc. vs. NLRC*, 180 SCRA 714; *Andal vs. Sandiganbayan*, 179 SCRA 26; *Canete vs. CA*, 171 SCRA 13; *Lim vs. CA*, 158 SCRA 307

[17] G.R. No. 92755, Resolution issued October 2, 1990

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