

REPUBLIC OF THE PHILIPPINES THRU: THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), AFP ANTI-GRAFT BOARD, COL. ERNESTO A. PUNSALANG AND PETER T. TABANG, PETITIONERS, VS. HO...

G.R. No. 89483. August 30, 1990

Ponente: CORTES, J.

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CORTES, J.:

This case puts in issue the authority of the Presidential Commission on Good Government (PCGG), through the New Armed Forces of the Philippines Anti-Graft Board (hereinafter referred to as the “Board”), to investigate and cause the prosecution of petitioner, a retired military officer, for violation of Republic Acts Nos. 3019 and 1379.

Assailed by the Republic in this petition for certiorari, prohibition and/or mandamus with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order are the orders of respondent judge in Civil Case No. 57092 Branch 151 of the Regional Trial Court of Pasig, Metro Manila: (1) dated June 23, 1989, denying petitioners’ Motion to Dismiss and Opposition, and (2) dated June 26, 1989, granting private respondent’s application for the issuance of a writ of preliminary injunction. Thus, the petition seeks the annulment of the two orders, the issuance of an injunction to enjoin respondent judge from proceeding with Civil Case No. 57092 and, finally, the dismissal of the case before the trial court.

The controversy traces its roots to the order of then PCGG Chairman Jovito R. Salonga, dated May 13, 1986, which created the New Armed Forces of the Philippines Anti-Graft Board. The Board was created to “investigate the unexplained wealth and corrupt practices of AFP personnel, both retired and in active service.” The order further stated that “[t]he Board shall be primarily charged with the task of investigating cases of alleged violations of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019, as amended) and shall make the necessary recommendations to appropriate government agencies and instrumentalities with respect to the action to be taken thereon based on its findings.”

Acting on information received by the Board, which indicated the acquisition of wealth beyond his lawful income, private respondent Lt. Col. Troadio Tecson (ret.) was required by the Board to submit his explanation/comment together with his supporting evidence by October 31, 1987 [Annex “B”, Petition.] Private respondent requested, and was granted, several postponements, but was unable to produce his supporting evidence because they were allegedly in the custody of his bookkeeper who had gone abroad.

Just the same, the Board proceeded with its investigation and submitted its resolution, dated June 30, 1988, recommending that private respondent be prosecuted and tried for violation of Rep. Act No. 3019, as amended, and Rep. Act No. 1379, as amended.

The case was set for preliminary investigation by the PCGG. Private respondent moved to dismiss the case on the following grounds: (1) that the PCGG has no jurisdiction over his person; (2) that the action against him under

Rep. Act No. 1379 has already prescribed; (3) that E.O. No. 14, insofar as it suspended the provisions of Rep. Act No. 1379 on prescription of actions, was inapplicable to his case; and (4) that having retired from the AFP on May 9, 1984, he was now beyond the reach of Rep. Act No. 3019. The Board opposed the motion to dismiss.

In a resolution dated February 8, 1989, the PCGG denied the motion to dismiss for lack of merit. Private respondent moved for reconsideration but this was denied by the PCGG in a resolution dated March 8, 1989. Private respondent was directed to submit his counter-affidavit and other controverting evidence on March 20, 1989 at 2:00 p.m.

On March 13, 1989, private respondent filed a petition for prohibition with preliminary injunction with the Regional Trial Court in Pasig, Metro Manila. The case was docketed as Case No. 57092 and raffled to Branch 151, respondent judge's court. Petitioner filed a motion to dismiss and opposed the application for the issuance of a writ of preliminary injunction on the principal ground that the Regional Trial Court had no jurisdiction over the Board, citing the case of PCGG v. Pena, G.R. No. 77663, April 12, 1988, 159 SCRA 556. Private respondent opposed the motion to dismiss. Petitioner replied to the opposition.

On June 23, 1989, respondent judge denied petitioner's motion to dismiss. On June 26, 1989, respondent judge granted the application for the issuance of a writ of preliminary injunction, enjoining petitioners from investigating or prosecuting private respondent under Rep. Acts Nos. 3019 and 1379 upon the filing of a bond in the amount of Twenty Thousand Pesos (P20,000.00).

Hence, the instant petition.

On August 29, 1989, the Court issued a restraining order enjoining respondent judge from enforcing his orders dated June 23, 1989 and June 26, 1989 and from proceeding with Civil Case No. 57092.

Private respondent filed his comment, to which petitioners filed a reply. A rejoinder to the reply was filed by private respondent. The Court gave due course to the petition and the parties filed their memoranda. Thereafter, the case was deemed submitted.

The issues raised in the petition are as follows:

I

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION OR ACTED WITHOUT OR IN EXCESS OF JURISDICTION IN ASSUMING JURISDICTION OVER AND INTERFERING WITH THE ORDERS AND FUNCTIONS OF THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT.

II

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION OR ACTED WITHOUT OR IN EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDER DATED JUNE 26, 1989 ENJOINING PETITIONERS FROM INVESTIGATING AND PROSECUTING PRIVATE RESPONDENT FOR VIOLATION OF REPUBLIC ACT NO. 3019, OTHERWISE KNOWN AS ANTI-GRAFT AND CORRUPT PRACTICES ACT AND REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS AN ACT FOR THE FORFEITURE OF UNLAWFULLY ACQUIRED PROPERTY [Rollo, p. 19.]

As to the first issue, petitioner contends that following the ruling of the Court in PCGG v. Pena the Board, being a creation and/or extension of the PCGG, is beyond the jurisdiction of the Regional Trial Court. On the second issue, petitioner strongly argues that the private respondent's case falls within the jurisdiction of the PCGG.

The pivotal issue is the second one. On this point, private respondent's position is as follows:

1. . . . he is not one of the subordinates contemplated in Executive Orders 1, 2, 14 and 14-A as the alleged illegal acts being imputed to him, that of alleged amassing wealth beyond his legal means while Finance Officer of the Philippine Constabulary, are acts of his own alone, not connected with his being a crony, business associate, etc. or subordinate as the petition does not allege so. Hence the PCGG has no jurisdiction to investigate him. . . .

If indeed private respondent amassed wealth beyond his legal means, the procedure laid down by Rep. Act 1379 as already pointed out before be applied. And since, he has been separated from the government more than four years ago, the action against him under Republic Act 1379 has already prescribed.

2. . . . no action can be filed anymore against him now under Republic Act 1379 for recovery of unexplained wealth for the reason that he has retired more than four years ago.

3. The order creating the AFP Anti-Graft Board (Annex "A", Petition) is null and void. Nowhere in Executive Orders 1, 2, 14 and 14-A is there any authority given to the commission, its chairman and members, to create Boards or bodies to be invested with powers similar to the powers invested with the commission. . . . [Comment, pp. 6-7; Rollo, pp. 117-118.]

1. The most important question to be resolved in this case is whether or not private respondent may be investigated and caused to be prosecuted by the Board, an agency of the PCGG, for violation of Rep. Acts Nos. 3019 and 1379. According to petitioners, the PCGG has the power to investigate and cause the prosecution of private respondent because he is a "subordinate" of former President Marcos. They cite the PCGG's jurisdiction over -

(a) The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship. [E. O. No. 1, sec. 2.]

Undoubtedly, the alleged unlawful accumulation of wealth was done during the administration of Pres. Marcos. However, what has to be inquired into is whether or not private respondent acted as a "subordinate" of Pres. Marcos within the contemplation of E.O. No. 1, the law creating the PCGG, when he allegedly unlawfully acquired the properties.

A close reading of E.O. No. 1 and related executive orders will readily show what is contemplated within the term "subordinate."

The Whereas Clauses of E.O. No. 1 express the urgent need to recover the ill-gotten wealth amassed by former President Ferdinand E. Marcos, his immediate family, relatives, and close associates both here and abroad.

E.O. No. 2 freezes "all assets and properties in the Philippines in which former President Marcos and/or his wife, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates, business associates, dummies, agents, or nominees have any interest or participation."

Applying the rule in statutory construction known as *eiusdem generis*, that is -

[W]here general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned [Smith, Bell & Co., Ltd. v. Register of Deeds of Davao, 96 Phil. 53, 58 (1954), citing Black on Interpretation of Laws, 2nd Ed., 203.]

the term “subordinate” as used in E.O. Nos. 1 and 2 would refer to one who enjoys a close association or relation with former Pres. Marcos and/or his wife, similar to the immediate family member, relative, and close associate in E.O. No. 1 and the close relative, business associate, dummy, agent, or nominee in E.O. No. 2.

Thus, as stated by the Court in *Bataan Shipyard & Engineering Co., Inc. v. PCGG*, G.R. No. 75885, May 27, 1987, 150 SCRA 181, 205-206:

The situations envisaged and sought to be governed [by Proclamation No. 3 and E.O. Nos. 1, 2 and 14] are self-evident, these being:

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

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

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

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

2) that certain “business enterprises and properties (were) taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos.” [Footnotes deleted.]

It does not suffice, as in this case, that the respondent is or was a government official or employee during the administration of former Pres. Marcos. There must be a *prima facie* showing that the respondent unlawfully accumulated wealth by virtue of his close association or relation with former Pres. Marcos and/or his wife. This is so because otherwise the respondent’s case will fall under existing general laws and procedures on the matter. Rep. Act No. 3019, the Anti-Graft and Corrupt Practices Act, penalizes the corrupt practices of any public officer. Under Rep. Act No. 1379 (An Act Declaring Forfeited in Favor of the State Any Property Found to Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing for the Procedure Therefor), whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed, *prima facie* to have been unlawfully acquired [Sec. 2.] The Solicitor General shall file the petition and prosecute the case in behalf of the Republic, after preliminary investigation by the provincial or city prosecutor (*Ibid.*)

Moreover, the record shows that private respondent was being investigated for unlawfully acquired wealth under Rep. Acts Nos. 3019 and 1379, and not under E.O. Nos. 1, 2, 14 and 14-A.

Since private respondent was being investigated by the PCGG through the AFP Anti-Graft Board it would have been presumed that this was under Rep. Acts Nos. 3019 and 1379 in relation to E.O. Nos. 1, 2, 14 and 14-A. But

the record itself belies this presumption:

(a) The letter of the chairman of the AFP Anti-Graft Board to private respondent, dated October 16, 1987, states: "This letter is in connection with the alleged information received by the AFP Anti-Graft Board indicating your acquisition of wealth beyond legal means of income in violation of Rep. Act No. 3019 known as the Anti-Graft and Corrupt Practices Act." [Rollo, p. 39.]

(b) The Resolution dated June 30, 1988 of the Board categorically states:

I. PRELIMINARY STATEMENT:

This refers to the case against Col Troadio B Tecson PC (Ret) for alleged unexplained wealth pursuant to R.A. 3019, as amended, otherwise known as Anti-Graft and Corrupt Practices Act and R.A. 1379, as amended, otherwise known as the "Act for Forfeiture of Unlawfully Acquired Property". [Rollo, p. 43.]

The resolution alleges that private respondent unlawfully accumulated wealth by taking advantage of his office as Finance Officer of the Philippine Constabulary. No attempt is made in the Board's resolution to link him or his accumulation of wealth to former Pres. Marcos and/or his wife.

(c) The letter of the Board chairman to the chairman of the PCGG, dated July 28, 1988, is clear:

Respectfully transmitted herewith for the prosecution before the Sandiganbayan is the case folder of COLONEL TROADIO TECSON (Ret) who after preliminary investigation of the case by the Board, found a prima facie evidence against subject officer for violating Section 8, R.A. 3019, as amended by BP 195, otherwise known as the Anti-Graft and Corrupt Practices Act and R.A. 1379, otherwise known as an Act for the Forfeiture of Unlawfully Acquired Property." [Rollo, p. 46.]

Moreover, from the allegations of petitioner in its memorandum, it would appear that private respondent accumulated his wealth for his own account. Petitioner quoted the letter of Ignacio Datahan, a retired PC sergeant, to General Fidel Ramos, the material portion of which reads:

... After an official in the military unit received an Allotment Advice the same signed a cash advance voucher, let us say in the amount of 5,000.00. Without much ado, outright, Col. Tecson paid the amount. The official concerned was also made to sign the receipt portion on the voucher the amount of which was left blank. Before the voucher is passed for routine processing by Mrs. Leonor Cagas, clerk of Col. Tecson and its facilitator, the maneuver began. The amount on the face of the cash advance voucher is altered or superimposed. The original amount of P5,000.00 was now made say, P95,000.00. So it was actually the amount of P95,000.00 that appeared on the records. The difference of P90,000.00 went to the syndicate.

... Boy Tanyag, bookkeeper in Col. Tecson's office took care of the work.

... In the liquidation of the altered cash advance amount, names of persons found in the Metropolitan Manila Telephone Directory with fictitious addresses appeared as recipients or payees. Leonor and Boy got their shares on commission basis of the looted amount while the greater part went to Col. Tecson. [Rollo, pp. 184-185.]

Clearly, this alleged unlawful accumulation of wealth is not that contemplated in E.O. Nos. 1, 2, 14 and 14-A.

2. It will not do to cite the order of the PCGG Chairman, dated May 13, 1986, creating the Board and authorizing it to investigate the unexplained wealth and corrupt practices of AFP personnel, both retired and in active service, to support the contention that PCGG has jurisdiction over the case of private respondent. The PCGG cannot do more than what it was empowered to do. Its powers are limited. Its task is limited to the recovery of the ill-gotten wealth of the Marcoses, their relatives and cronies. The PCGG cannot, through an order of its chairman, grant

itself additional powers - powers not contemplated in its enabling law.

3. Petitioner assails the trial court's cognizance of the petition filed by private respondent. Particularly, petitioner argues that the trial court cannot acquire jurisdiction over the PCGG. This matter has already been settled in *Pena*, supra, where the Court ruled that those who wish to question or challenge the PCGG's acts or orders must seek recourse in the Sandiganbayan, which is vested with exclusive and original jurisdiction. The Sandiganbayan's decisions and final orders are in turn subject to review on certiorari exclusively by this Court. [*Ibid*, at pp. 564-565.]

The ruling in *Pena* was applied in *PCGG v. Aquino*, G.R. No. 77816, June 30, 1988, 163 SCRA 363, *Soriano III v. Yuzon*, G.R. No. 74910 (and five other cases), August 10, 1988, 164 SCRA 226 and *Olague v. RTC*, NCJR, Br. 48, G.R. No. 81385, February 21, 1989, 170 SCRA 478, among others, to enjoin the regional trial courts from interfering with the actions of the PCGG.

Respondent judge clearly acted without or in excess of his jurisdiction when he took cognizance of Civil Case No. 57092 and issued the writ of preliminary injunction against the PCGG.

4. Thus, we are confronted with a situation wherein the PCGG acted in excess of its jurisdiction and, hence, may be enjoined from doing so, but the court that issued the injunction against the PCGG has not been vested by law with jurisdiction over it and, thus, the injunction issued was null and void.

The nullification of the assailed order of respondent judge issuing the writ of preliminary injunction is therefore in order. Likewise, respondent judge must be enjoined from proceeding with Civil Case No. 57092.

But in view of the patent lack of authority of the PCGG to investigate and cause the prosecution of private respondent for violation of Rep. Acts Nos. 3019 and 1379, the PCGG must also be enjoined from proceeding with the case, without prejudice to any action that may be taken by the proper prosecutory agency. The rule of law mandates that an agency of government be allowed to exercise only the powers granted it.

5. The pronouncements made above should not be taken to mean that the PCGG's creation of the AFP Anti-Graft Board is a nullity and that the PCGG has no authority to investigate and cause the prosecution of members and former members of the Armed Forces of the Philippines for violations of Rep. Acts Nos. 3019 and 1379. The PCGG may investigate and cause the prosecution of active and retired members of the AFP for violations of Rep. Acts Nos. 3019 and 1379 only in relation to E.O. Nos. 1, 2, 14 and 14-A, i.e., insofar as they involve the recovery of the ill-gotten wealth of former Pres. Marcos and his family and "cronies." But the PCGG would not have jurisdiction over an ordinary case falling under Rep. Acts Nos. 3019 and 1379, as in the case at bar. E.O. Nos. 1, 2, 14 and 14-A did not envision the PCGG as the investigator and prosecutor of all unlawful accumulations of wealth. The PCGG was created for a specific and limited purpose, as we have explained earlier, and necessarily its powers must be construed with this in mind.

6. In his pleadings, private respondent contends that he may no longer be prosecuted because of prescription. He relies on section 2 of Rep. Act No. 1379 which provides that "[t]he right to file such petition [for forfeiture of unlawfully acquired wealth] shall prescribe within four years from the date of resignation, dismissal or separation or expiration of the term of the officer or employee concerned." He retired on May 9, 1984, or more than six (6) years ago. However, it must be pointed out that section 2 of Rep. Act No. 1379 should be deemed amended or repealed by Article XI, section 15 of the 1987 Constitution which provides that "[t]he right of the State to recover properties unlawfully acquired by public officials or employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel." Considering that sec. 2 of Rep. Act No. 1379 was deemed amended or repealed before the prescriptive period provided therein had lapsed insofar as private respondent is

concerned, we cannot say that he had already acquired a vested right that may not be prejudiced by a subsequent enactment.

Moreover, to bar the Government from recovering ill-gotten wealth would result in the validation or legitimization of the unlawful acquisition, a consequence at variance with the clear intent of Rep. Act No. 1379, which provides:

SEC. 11. Laws on prescription. - The laws concerning acquisitive prescription and limitation of actions cannot be invoked by, nor shall they benefit the respondent, in respect to any property unlawfully acquired by him.

Thus, we hold that the appropriate prosecutory agencies, i.e., the city or provincial prosecutor and the Solicitor General under sec. 2 of Rep. Act No. 1379, may still investigate the case and file the petition for the forfeiture of unlawfully acquired wealth against private respondent, now a private citizen. (On the other hand, as regards respondents for violations of Rep. Acts Nos. 3019 and 1379 who are still in the government service, the agency granted the power to investigate and prosecute them is the Office of the Ombudsman [Rep. Act No. 6770].) Under Presidential Decree No. 1606, as amended, and Batas Pambansa Blg. 195 violations of Rep. Acts Nos. 3019 and 1379 shall be tried by the Sandiganbayan.

7. The Court hastens to add that this decision is without prejudice to the prosecution of private respondent under the pertinent provisions of the Revised Penal Code and other related penal laws.

WHEREFORE, the order of respondent judge dated June 26, 1989 in Civil Case No. 57092 is NULLIFIED and SET ASIDE. Respondent judge is ORDERED to dismiss Civil Case No. 57092. The temporary restraining order issued by the Court on August 29, 1989 is MADE PERMANENT. The PCGG is ENJOINED from proceeding with the investigation and prosecution of private respondent in I.S. No. 37, without prejudice to his investigation and prosecution by the appropriate prosecution agency.

SO ORDERED.

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

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