

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN (THIRD DIVISION) AND MACARIO ASISTIO, JR., RESPONDENTS.

G.R. No. 90529. August 16, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

With the renaissance of democratic space and the culmination in court of a preponderant number of ill-gotten wealth cases, this Court is tasked again with another novel issue involving the determination of whether it is the Office of the Ombudsman or the Office of the Solicitor General which has the authority to file a petition for forfeiture of unlawfully acquired wealth as provided for in Republic Act No. 1379.[1]

The Republic, through the Solicitor General, filed the instant petition for review on certiorari seeking to annul and set aside the resolution[2] of respondent Sandigan-bayan, promulgated on October 10, 1989, dismissing the petition for forfeiture filed by the Republic against respondent Macario Asistio, Jr., for the reason that "it is the Ombudsman - not the Office of the Solicitor General - that has the authority to file the petition."

The facts, as summarized in the memorandum of the Republic, are as follows:

"1. In a Joint Letter-Complaint to the Ombudsman dated January 8, 1989 (Annex 'A', Petition), Messrs. Arnel Blancaflor and Rodolfo Santos, residents of Kalookan City, charged respondent Macario Asistio, Jr., who is the incumbent Mayor of Kalookan City, with having violated the Anti-Graft and Corrupt Practices Act (R.A. 3019), specifically Section 8 thereof.

"2. In said Joint Sworn Letter-Complaint, they alleged that during his incumbency as Kalookan City Mayor in 1981, 1982 and 1983, respondent Asistio acquired wealth in the amounts of P2,142,637.50, P11,463,734.40 and P3,658,351.00, respectively, or a total of P17,264,722.90, which he deposited in his personal account, CA-4670-00136-3, in the Republic Planters Bank, Sangandaan Branch, Kalookan City.

"3. In support of their allegations, they attached the original copies of the bank deposits and receipts which indicated the various sums deposited within the three-year period and which had been machine validated from January 5, 1981 thru December 20, 1983 (Annexes 'A-1' to 'A-370', Petition).

"4. However, in his Sworn Statements of Assets and Liabilities for the period ending December 31, 1982 (Annex 'B', Petition) and December 31, 1984 (Annex 'C', Petition), said respondent had a total income of only P234,128.68 and P255,324.02, respectively; and as against his total assets (real and personal properties) of P2,859,327.94 as of December 31, 1982, he had loans payable in the amount of P2,425,575.60, and against total assets of P5,143,260.98 as of December 31, 1984, he had loans payable in the amount of P2,660,094.74.

"5. The Preliminary Investigation was conducted by Special Prosecution Officer Margarito P. Gervacio, Jr., before whom authenticated xerox copies of the original ledger cards of CA-4670--00136-3 in the name of respondent Macario Asistio, Jr. were produced and presented by the officer-in--charge of the Republic Planters Bank, Sangandaan Branch, Kalookan City.

"6. Finding that the total combined family income of respondent Asistio for the years 1981, 1982, 1983 and

1984, amounting only to P489,452.70, is manifestly out of proportion to the totality of his bank deposits in the total amount of P14,184,337.16 for the same four-year period, the Ombudsman, therefore, finds that a violation of Republic Act 1379 and/or Section 8 of Republic Act 3019 has been committed and that Asistio is 'probably guilty thereof' (Annex 'D', Petition).

"7. Thus, on March 31, 1989, the Ombudsman, the Honorable Conrado M. Vasquez, indorsed the above case to the Solicitor General for appropriate action, based on the provision of Section 2, Republic Act 1379.

Said indorsement reads, in part:

'Pursuant to the provision of Sec. 2, Republic Act 1379, the appropriate preliminary investigation had been conducted in the premises by this Office and there is reasonable ground to believe that the provision of Sec. 8, Republic Act 3019 has been violated probably by respondent Macario Asistio, Jr. A Resolution on the matter was issued by this Office, copies of which form part of the record.'"[3]

On April 28, 1989, the Solicitor General, pursuant to the aforesaid recommendation of the Ombudsman, filed a Petition for Forfeiture[4] before the Sandiganbayan.

A Motion to Dismiss[5] was filed by respondent Asistio, through counsel, on the ground that:

1. The Sandiganbayan has no jurisdiction over the case;
2. Sections 2, 6, 8 and 9 of R.A. 1379, if not the entire statute, are invalid for being unconstitutional; and
3. The petition states no cause of action.

In an Opposition to Respondent's Motion to Dismiss,[6] the Solicitor General averred that:

1. The Sandiganbayan has jurisdiction over the case;
2. Respondent's attack on the constitutionality of R.A. 1379 is bereft of any basis;
3. Ironically, while respondent attacks the constitutionality of R.A. 1379, he relies on the very same law to support his argument that the Sandiganbayan has no jurisdiction over this forfeiture case grounded on Sec. 2 of R.A. 1379; respondent is therefore estopped from assailing the validity of R.A. 1379;
4. The petition has more than sufficient cause of action; and
5. The motion to dismiss is dilatory and frivolous, hence outrightly dismissible.

In dismissing the petition for forfeiture and in ruling that it is the Ombudsman who has the authority to file the same before the court, the Sandiganbayan held that:

"Other statutory provisions pertinent to the incident at bar read:

'The Office of the Tanodbayan shall have the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan; to file information therefor and to direct and control the prosecution of the said cases.' (Sec. 17, PD 1630.)

'The provisions of the Decree notwithstanding, the Office of the Tanodbayan shall continue to have the exclusive authority to conduct preliminary investigation, file the necessary information, and direct and control the prosecution of all cases enumerated in Section 4 of Presidential Decree No. 1606, whether such cases be within the exclusive original/appellate jurisdiction of the Sandiganbayan or the appropriate courts in accordance with the provisions of Presidential Decree No. 1630.' (Sec. 3, PD 1861, amending PD 1606.)

"Since violations of Republic Act 1379 are cognizable exclusively by the Sandiganbayan pursuant to Section 4

of PD 1606, abrogating thereby the jurisdiction over forfeiture cases theretofore vested in the Regional Trial Court of the city or province where the public officer or employee complained of resides or holds office under Section 2 of Republic Act 1379, the other provision of said section 2 insofar as it lodged in the City or Provincial Fiscal the power to conduct the previous inquiry/preliminary investigation must be deemed similarly modified by PD 1630, Section 17, and PD 1861, Section 3 abovequoted, in the sense that such authority of the City or Provincial Fiscal has been transferred to the Office of the Tanodbayan (now Ombudsman). Considering, further, that PDs 1630 and 1861, Sections 17 and 3, respectively, also provide that the Office of the Tanodbayan (Ombudsman) shall also have the exclusive authority to file the necessary information and direct and control the prosecution of all cases falling under the exclusive jurisdiction of the Sandiganbayan, it is the Ombudsman - not the Office of the Solicitor General - that has the authority to file the petition in this case.

x x x

"UPON THE FOREGOING CONSIDERATIONS, the instant petition is hereby DISMISSED but without prejudice to the refiling of another petition by the Ombudsman." (Underscoring in the original text.)[7]

In effect, the dismissal of the petition for forfeiture by the Sandiganbayan is premised on the supposition that since violations of Republic Act No. 1379 now fall within the exclusive jurisdiction of the Sandiganbayan, and considering further that the exclusive authority to file the necessary informations and to direct and control the prosecution of all cases falling under the exclusive jurisdiction of the Sandiganbayan is vested in the Office of the Tanodbayan (now Ombudsman), it follows that it is the Ombudsman, and not the Solicitor General, who has the authority to file the petition for forfeiture.

It is the submission of the Solicitor General that his authority to file the petition for forfeiture under Republic Act No. 1379 should be retained, notwithstanding the amendments introduced by Presidential Decrees Nos. 1630 and 1861 vesting in the Tanodbayan (now Ombudsman) the exclusive authority to conduct the preliminary investigation of all cases cognizable by the Sandiganbayan (specifically those enumerated in Section 4 of Presidential Decree No. 1606, as last amended by Presidential Decree No. 1861), to file the informations therefor and to direct and control the prosecution of said cases.

Several reasons are advanced by the Solicitor General for his aforesaid postulation, viz.:

1. The exclusive authority vested in the Tanodbayan by Section 17 of Presidential Decree No. 1630 and Section 3 of Presidential Decree No. 1861 is confined only to the filing of the information and directing and controlling the prosecution of the cases cognizable by the Sandiganbayan, but does not include the authority to file a petition for forfeiture. An information, as defined under Section 4, Rule 110, of the Rules of Court, is different from a petition, in that an information necessarily refers to a criminal proceeding while a petition does not.
2. It is the intention of the legislature to delineate forfeiture proceedings under Republic Act No. 1379 from the rest of the violations of Republic Act No. 3019, as may be implied from a reading of Section 9 of Republic Act No. 3019 (penalties for violations of Sections 3, 4, 5, and 6 thereof), which does not include Section 8 (forfeiture judgments) of the same law within the punishments usually associated with criminal proceedings, such as imprisonment and/or perpetual disqualification from public office.
3. The provision of Republic Act No. 1379 authorizing the Solicitor General to file the petition for forfeiture, being a special and specific provision, should prevail over Presidential Decrees Nos. 1630 and 1861 which contain general provisions involving violations not only of Republic Act No. 1379 but also of Republic Act No. 3019.

We find for the petitioner.

Before the creation of the Sandiganbayan, it was the Solicitor General who was authorized to initiate forfeiture proceedings before the then court of first instance of the city or province where the public officer or employee resides or holds office, pursuant to Section 2 of Republic Act No. 1379[8] which reads:

"Sec. 2. Filing of petition. - 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. The Solicitor General, upon complaint by any taxpayer to the city or provincial fiscal who shall conduct a previous inquiry similar to preliminary investigations in criminal cases and shall certify to the Solicitor General that there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof, shall file, in the name and on behalf of the Republic of the Philippines, in the Court of First Instance of the city or province where said public officer or employee resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: x x x."

Thereafter, Presidential Decree No. 1486 was promulgated on June 11, 1978 providing for the creation of the Sandiganbayan and vesting it, under Section 4 thereof, with original and exclusive jurisdiction to try and decide, among others:

"(a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379;

(b) Crimes committed by public officers or employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code;

(c) Other crimes or offenses committed by public officers or employees including those employed in government-owned or controlled corporations in relation to their office; Provided, that, in case private individuals are accused as principals, accomplices or accessories in the commission of the crimes hereinabove mentioned, they shall be tried jointly with the public officers or employees concerned.

x x x

(d) Civil suits brought in connection with the aforementioned crimes for restitution or reparation of damages, recovery of the instruments and effects of the crimes, or forfeiture proceedings provided for under Republic Act No. 1379;

(e) Civil actions brought under Articles 32 and 34 of the Civil Code."

x x x

Subsequently, Presidential Decree No. 1606 was issued on December 10, 1978 expressly repealing Presidential Decree No. 1486 and revising in the process the jurisdiction of the Sandiganbayan by removing therefrom the civil cases stated in Section 4(d) and (e) of Presidential Decree No. 1486 which included forfeiture proceedings provided for under Republic Act No. 1379.

Section 20 of Batas Pambansa Blg. 129 expanded the exclusive original jurisdiction of the Sandiganbayan over the offenses enumerated in Section 4 of Presidential Decree No. 1606 to embrace all such offenses irrespective of the imposable penalty, but Presidential Decree No. 1606 was subsequently amended, first by Presidential Decree No. 1860 and eventually by Presidential Decree No. 1861, establishing the jurisdiction of the Sandiganbayan:

"SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise:

"(a) Exclusive original jurisdiction in all cases involving:

(1) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2) Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prison correccional or imprisonment for six (6) years, or a fine of P6,000.00: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prison correccional or imprisonment for six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court.

"(b) Exclusive appellate jurisdiction:

(1) On appeal, from the final judgments, resolutions or orders of the Regional Trial Courts in cases originally decided by them in their respective territorial jurisdiction.

(2) By petition for review, from the final judgments, resolutions or orders of the Regional Trial Courts, in the exercise of their appellate jurisdiction over cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction."

On the foregoing considerations, there is no issue that jurisdiction over violations of Republic Acts Nos. 3019 and 1379 now rests with the Sandiganbayan. Concomitant with this transfer of jurisdiction, however, is the question of whether such transfer necessarily involves a transfer of the authority to file a petition for forfeiture from the Solicitor General to the Ombudsman. The Sandiganbayan holds in the affirmative; the Solicitor General opines otherwise.

The resolution of the main substantive issue posed in the present petition renders imperative a review of the powers of the present Special Prosecutor (formerly called the Tanodbayan) and of the Ombudsman (who is now the Tanodbayan).

Presidential Decree No. 1487, which was enacted on June 11, 1978 at the same time that Presidential Decree No. 1486 was passed, is the primary law creating the Office of the Ombudsman, then known as the Tanodbayan. The powers of the then Tanodbayan were as follows:

"SEC. 10. Powers. - The Tanodbayan shall have the following powers:

(a) He may investigate, on complaint, any administrative act of any administrative agency including any government-owned or controlled corporation;

x x x

SEC. 17. Prosecution of public personnel. – If the Tanodbayan has reason to believe that any public official, employee or other person has acted in a manner resulting in a failure of justice, he shall file and prosecute the corresponding criminal, civil, or administrative case before the Sandiganbayan or the proper court or body."

It is important to note that when the Tanodbayan was created, it initially had no authority to prosecute cases falling within the jurisdiction of the Sandiganbayan as provided for under Section 4 of Presidential Decree No. 1486 hereinbefore mentioned. It was the Chief Special Prosecutor who was vested with such authority pursuant to Section 12 of said decree, thus:

"SEC. 12. Office of the Chief Special Prosecutor. – The provisions of any law or rule to the contrary notwithstanding, the direction and control of the prosecution of cases mentioned in Section 4 thereof, shall be exercised by a Chief Special Prosecutor x x x.

"The Chief Special Prosecutor x x x shall have exclusive authority to conduct preliminary investigations of all complaints filed with the Sandiganbayan, to file informations and conduct the prosecution of all cases x x x."

A perusal of Sections 4(d) and 12 of Presidential Decree No. 1486, in conjunction with Section 2 of Republic Act No. 1379, readily reveals that Presidential Decree No. 1486 had impliedly repealed Section 2 of Republic Act No. 1379 by transferring both the jurisdiction of the former courts of first instance over and the authority of the Solicitor General to file a petition for forfeiture under Republic Act No. 1379 to the Sandiganbayan and the then Chief Special Prosecutor, respectively.

Then, Presidential Decree No. 1607 was enacted on December 10, 1978, amending the power of the former Tanodbayan to investigate administrative complaints and providing for the creation of the Office of the Chief Special Prosecutor whose powers were substantially retained by the later law, in this wise:

"SEC. 10. Powers. - The Tanodbayan shall have the following powers:

(a) He may investigate, on complaint by any person or on his own motion or initiative, any, administrative act whether amounting to any criminal offense or not of any administrative agency including any government-owned or controlled corporation;"

x x x

"SEC. 17. Office of the Chief Special Prosecutor. ?

x x x

The Chief Special Prosecutor, x x x shall have the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan; to file informations therefor and to direct and control the prosecution of said cases therein; x x x."

x x x

"SEC. 19. Prosecution of Public Personnel or Other Person. - If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary action or proceedings, he shall cause him to be investigated by the Office of the Chief Special Prosecutor who shall file and prosecute the corresponding criminal or administrative case before the Sandiganbayan or the proper court or before the proper administrative agency. x x x."

The scope of the then Tanodbayan's authority was broadened on July 18, 1979 by a subsequent law, Presidential Decree No. 1630, to include, aside from the power to investigate any administrative act whether amounting to any criminal offense or not of any administrative agency, the following powers: to file the necessary information or complaint with the Sandiganbayan or any proper court or administrative agency and prosecute the same if, after preliminary investigation, he finds a prima facie case; and to file and prosecute civil and administrative cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office.[9] The exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan, to file informations therefor and to direct and control the prosecution of said cases was also specifically restored by said decree to the Tanodbayan.[10] In addition, the power to conduct the necessary investigation and to file and prosecute the corresponding criminal and administrative cases before the Sandiganbayan or the proper court or before the proper administrative agency against any public personnel who has acted in a manner warranting criminal or disciplinary action or proceedings was likewise transferred from the Chief Special Prosecutor to the Tanodbayan.[11]

Thereafter, when Presidential Decree No. 1606 was amended by Presidential Decrees Nos. 1860 and 1861 on

January 14, 1983 and March 23, 1983, respectively, both amendatory decrees contained a virtually identical Section 3 granting him the same authority, to wit:

"SEC. 3. The provisions of this decree notwithstanding, the Office of the Tanodbayan shall continue to have the exclusive authority to conduct preliminary investigation, file the necessary information, and direct and control the prosecution of all cases enumerated in Section 4 of Presidential Decree No. 1606, whether such cases be within the exclusive original/appellate jurisdiction of the Sandiganbayan or the appropriate courts in accordance with the provisions of Presidential Decree No. 1630."

With the ratification of the present Constitution, the existing Tanodbayan became known as the Office of the Special Prosecutor which continued to exercise its powers except those conferred on the Office of the Ombudsman to be known as the Tanodbayan created under the said Constitution.[12] The Office of the Ombudsman and the Office of the Special Prosecutor were officially and respectively created under Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, and Executive Order No. 244.

At present, the powers of the Ombudsman, as defined by Republic Act No. 6770 corollary to Section 13, Article XI of the 1987 Constitution, include, inter alia, the authority to: (1) investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;[13] and (2) investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved there.[14]

It follows that these powers vested in the Ombudsman by the Constitution and the law have been removed from the erstwhile Tanodbayan (now called the Special Prosecutor) and may no longer be exercised by the latter. The powers of the previous Tanodbayan is now limited, under the supervision and control and upon the authority of the Ombudsman, to the following: (1) to conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan; (2) to enter into plea bargaining agreements; and (3) to perform such other duties assigned to it by the Ombudsman.[15]

In *Zaldivar vs. Sandiganbayan, et al.*,[16] the powers of the former Tanodbayan were explained as follows:

"Under the 1987 Constitution, the Ombudsman (as distinguished from the incumbent Tanodbayan) is charged with the duty to:

'Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient.' (Sec. 13, par. 1)

"The Constitution likewise provides that:

"The existing Tanodbayan shall hereafter be known as the Office of the Special Prosecutor. It shall continue to function and exercise its powers as now or hereafter may be provided by law, except those conferred on the Office of the Ombudsman created under this Constitution.' (Art. XI, Section 7)

"Now then, inasmuch as the aforementioned duty is given to the Ombudsman, the incumbent Tanodbayan (called Special Prosecutor under the 1987 Constitution and who is supposed to retain powers and duties NOT GIVEN to the Ombudsman) is clearly without authority to conduct preliminary investigations and to direct the filing of criminal cases with the Sandiganbayan, except upon orders of the Ombudsman. This right to do so was lost effective February 2, 1987. From that time, he has been divested of such authority.

"Under the present Constitution, the Special Prosecutor (Raul Gonzalez) is a mere subordinate of the

Tanodbayan (Ombudsman) and can investigate and prosecute cases only upon the latter's authority or orders. The Special Prosecutor cannot initiate the prosecution of cases but can only conduct the same if instructed to do so by the Ombudsman. Even his original power to issue subpoena, which he still claims under Section 10(d) of PD 1630, is now deemed transferred to the Ombudsman, who may, however, retain it in the Special Prosecutor in connection with the cases he is ordered to investigate."

In the light of the foregoing pronouncements, there is no doubt that the power of the present Special Prosecutor to conduct preliminary investigation and to prosecute is subject to the following limitations: (a) it extends only to criminal cases within the jurisdiction of the Sandiganbayan; and (b) the same may be exercised only by authority of the Ombudsman.

The rule is settled that forfeiture proceedings are actions in rem^[17] and, therefore, civil in nature. Parenthetically, considering the limited authority of the present Special Prosecutor, he is not allowed to file and prosecute forfeiture cases provided for under Republic Act No. 1379 even if the same falls within the jurisdiction of the Sandiganbayan. On the premise that the incumbent Special Prosecutor cannot file the petition, is the Ombudsman empowered to initiate and prosecute the same?

A perusal of the law originally creating the Office of the Ombudsman then (to be known as the Tanodbayan), and the amendatory laws issued subsequent thereto will show that, at its inception, the Office of the Ombudsman was already vested with the power to investigate and prosecute civil and criminal cases before the Sandiganbayan and even the regular courts.

In resume, Presidential Decree No. 1487 provided:

"SEC. 17. Prosecution of public personnel, ? If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner resulting in a failure of justice, he shall file and prosecute the corresponding criminal, civil, or administrative case before the Sandiganbayan or the proper court or body."

and Presidential Decree No. 1630, on its part, had this more detailed provision:

"SEC. 10. Powers. - The Tanodbayan shall have the following powers:

x x x

(e) If after preliminary investigation he finds a prima facie case, he may file the necessary information or complaint with the Sandiganbayan or any proper court or administrative agency and prosecute the same;

(f) He may file and prosecute civil and administrative cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office."

Presidential Decree No. 1630 was the existing law governing the then Tanodbayan when Republic Act No. 6770 was enacted providing for the functional and structural organization of the present Office of the Ombudsman. This later law retained in the Ombudsman the power of the former Tanodbayan to investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. In addition, the Ombudsman is now vested with primary jurisdiction over cases cognizable by the Sandiganbayan. It would appear, therefore, that, as declared by respondent Sandiganbayan, it is the Ombudsman who should file the petition for forfeiture involved in this case.

Nonetheless, while we do not discount the authority of the Ombudsman, we believe and so hold that the exercise of his correlative powers to both investigate and initiate the proper action for the recovery of ill-gotten and/or

unexplained wealth is restricted only to cases for the recovery of ill-gotten and/or unexplained wealth which were amassed after February 25, 1986.[18] Prior to aid date, the Ombudsman is without authority to initiate such forfeiture proceedings. We, however, uphold his authority to investigate cases for the forfeiture or recovery of such ill-gotten and/or unexplained wealth amassed even before the aforementioned date, pursuant to his general investigatory power under Section 15(1) of Republic Act No. 6770.

In the case at bar, the alleged unexplained wealth of respondent Macario Asistio, Jr. was supposed to have been acquired from 1981 to 1983. Verily, the Ombudsman, like the Special Prosecutor, is without authority to initiate and file the petition for forfeiture against respondent Asistio.

It is our considered opinion, therefore, that in cases of unlawfully acquired wealth amassed before February 25, 1986, as is the situation obtaining in the case at bar, it is the Solicitor General who should file the petition for forfeiture. The reason is manifestly supplied by an analysis of the interplay of antecedent legislation.

It will be recalled that when Presidential Decree No. 1486 was issued on June 11, 1978, it vested in the Sandiganbayan jurisdiction over forfeiture proceedings provided for under Republic Act No. 1379. Section 12 of the same decree gave the Chief Special Prosecutor the authority to prosecute forfeiture cases. This should be taken as merely an implied repeal by Presidential Decree No. 1486 of the jurisdiction of the former courts of first instance and the authority of the Solicitor General to file a petition for forfeiture under Section 2 of Republic Act No. 1379 by transferring said jurisdiction and authority to the Sandiganbayan and the Chief Special Prosecutor, respectively.

However, on December 10, 1978, Presidential Decree No. 1606 was enacted expressly repealing Presidential Decree No. 1486. Issued on the same date was Presidential Decree No. 1607 which declared the official creation of the Office of the Chief Special Prosecutor, with Section 17 thereof providing for its exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan, file informations therefor, and direct and control the prosecution of said cases therein. Still and all, it now bears stressing that, under the state of the law at that juncture, the authority of the Chief Special Prosecutor no longer included the right to file actions for forfeiture under Republic Act No. 1379, nor was such authority vested in any other office or agency.

It is a respected rule of statutory construction that "where a law which repeals a prior law, not expressly but by implication, is itself repealed, x x x the repeal of the repealing law revives the prior law, unless the language of the repealing statute provides otherwise." [19] Hence, the repeal of Presidential Decree No. 1486 necessarily revived the authority of the Solicitor General to file a petition for forfeiture under Section 2 of Republic Act No. 1379, but not the jurisdiction of the quondam courts of first instance over the case nor the authority of the provincial or city fiscals to conduct the preliminary investigation therefor, since said powers at that time remained in the Sandiganbayan and the Chief Special Prosecutor. That such was the intentment of the law can be irresistibly deduced from a reading of Section 4 of Presidential Decree No. 1606 retaining in the Sandiganbayan jurisdiction over violations of Republic Act No. 1379, and of Section 17 of Presidential Decree No. 1607 which vested in the Chief Special Prosecutor the right to conduct a preliminary investigation and to file only informations for cases cognizable by the Sandiganbayan.

We agree with the Solicitor General that the authority thereafter restored to the then Tanodbayan to file informations for cases cognizable by the Sandiganbayan does not include the filing of a petition for forfeiture. As earlier mentioned, an information is an accusation in writing charging a person with an offense and requires a criminal proceeding; a petition for forfeiture involves a civil action in rem. The Solicitor General was, therefore, acting within the scope of his authority when he filed the petition for forfeiture before the Sandiganbayan. Besides, such authority of the Solicitor General is not an entirely new concept if we are to consider that under

Executive Order No. 14 the Solicitor General is empowered to assist in the filing and prosecution of cases for a violation thereof, including forfeiture proceedings under Republic Act No. 1379 in connection with Executive Orders Nos. 1 and 2.

WHEREFORE, the resolution of respondent Sandiganbayan promulgated on October 10, 1989 is hereby ANNULLED and SET ASIDE, and the petition for forfeiture filed by one Solicitor General is hereby ordered REINSTATED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, and Davide, Jr., JJ., concur.

[1] An Act Declaring Forfeiture in Favor of the State of any Property Found to have been Unlawfully Acquired by any Public Officer or Employee and Providing for the Procedure Therefor.

[2] Penned by Associate Justice Conrado M. Molina, with Associate Justices Luciano A. Joson and Nathanael M. Grospe, concurring; Annex H, Petition; Rollo, 158.

[3] Rollo, 231-233.

[4] Annex E, Petition; Rollo, 129.

[5] Annex A, id.; ibid., 193.

[6] Annex G, id.; ibid., 145.

[7] Rollo, 162-164.

[8] Approved on June 18, 1955.

[9] Section 10(e) and (f).

[10] Section 17.

[11] Section 18.

[12] Section 7, Article XI, 1987 Constitution.

[13] Section 15(1), Republic Act No. 6770.

[14] Section 15(11), id.

[15] Section 11(4), id.

[16] 160 SCRA 843 (1988).

[17] Pascual vs. Commissioner of Customs, 4 SCRA 1020 (1962).

[18] Section 15(11), Republic Act No. 6770.

[19] U.S. vs. Soliman, 36 Phil. 5 (1917).

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