

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN
(FIRST DIVISION), MARIA CLARA LOBREGAT, BIENVENIDO
MARQUEZ, CELESTINO SABATE, JOSE R. ELEAZAR, JR., DOMINGO
ESPI-NA, J...**

G.R. No. 96073. January 23, 1995

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

**I. Government Policy for Recovery
of Ill-Gotten Wealth**

One of the very first undertakings of the Revolutionary Government swept into power by the so-called EDSA Revolution in February, 1986 was the recovery of "ill-gotten wealth" reputedly amassed by former President and Mrs. Ferdinand Marcos, their relatives, friends and business associates. This surely was an enterprise "of great pith and moment;" it was attended by "great expectations;" it was initiated not only out of considerations of simple justice but also out of sheer necessity -- the national coffers were empty, or nearly so. At the time that the government of former President Marcos was driven from power, the country's debt was over twenty-six billion US dollars; and the indications were that "illegally acquired wealth" of the deposed president alone, not counting that of his relatives and cronies, was in the aggregate amount of from five to ten billion US dollars, the bulk of it being deposited and hidden abroad.

**II. Provisional Remedies in Pursuance
of Policy**

Special adjective tools or devices were provided by the Revolutionary Government for the recovery of that "ill-gotten wealth." These took the form of provisional remedies akin to preliminary attachment (Rule 57), writ of seizure of personalty (Rule 60) and receivership (Rule 59). They were (a) sequestration and (b) freeze orders, as regards "unearthed instances of 'ill-gotten wealth;'" and (c) provisional takeover, as regards "business enterprises and properties taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos." [1]

**A. Executive Orders Re Sequestration,
Freezing and Takeover**

These special remedies were prescribed and defined in Executive Orders Numbered 1 and 2, promulgated by President Corazon C. Aquino in March, 1986. Their validity and propriety were sustained by this Court on May 27, 1987, [2] against claims that they were unconstitutional as being bills of attainder, or as violative of the right against self-incrimination and the guaranty against unreasonable searches and seizures. In the same case, the Court also set the parameters for and restrictions on the proper exercise of the remedies.

On the explicit premise that "vast resources of the government have been amassed by former President Ferdinand

E. Marcos, his immediate family, relatives, and close associates both here and abroad," the Presidential Commission on Good Government — PCGG, for short — was created by Executive Order No. 1 to assist the President in the recovery of the ill-gotten wealth thus accumulated, "whether located in the Philippines or abroad." The Commission's powers included "the takeover or sequestration of all business enterprises and entities owned or controlled by ** (President Marcos, his family and close associates) 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." [3]

Executive Order No. 2 asserted that the ill-gotten "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." [4]

And Executive Order No. 14 [5] conferred on the Sandiganbayan exclusive and original jurisdiction over all cases of ill-gotten wealth, etc., and provided that civil suits involving the same may be filed separately from, and proceed independently of, any criminal proceeding, and that "technical rules of procedure and evidence shall not be strictly applied to ** (said) civil cases." The exclusivity of the jurisdiction of the Sandiganbayan was stressed in BASECO [6] and in PCGG v. Peña, et al. [7]

B. Relevant Constitutional Provisions

It appears to have been universally acknowledged that President Aquino had legitimate authority to wield legislative power under the revolutionary regime, at least "(u)ntil a legislature is elected and convened under a new constitution." [8] Such a new constitution was drawn up very quickly, and promulgated on March 25, 1986. [9] The matter of the recovery of ill-gotten wealth was explicitly dealt with therein; and President Aquino was thereby given the right and duty to "give priority to measures to achieve the mandate of the people," among others, to "(r)ecover ill-gotten properties amassed by the leaders and supporters of the previous regime and protect the interest of the people through orders of sequestration or freezing of assets or accounts." [10]

The present (1987) Constitution [11] also treats particularly of the matter of sequestration and recovery of ill-gotten wealth. Section 26, Article XVIII thereof provides as follows:

"SECTION 26. The authority to issue sequestration or freeze orders under Proclamation No. 3 dated March 25, 1986 in relation to the recovery of ill-gotten wealth shall remain operative for not more than eighteen months after ratification of this Constitution. However, in the national interest, as certified by the President, the Congress may extend said period.

A sequestration or freeze order shall be issued only upon showing of a prima facie case. The order and the list of the sequestered or frozen properties shall forthwith be registered with the proper court. For orders issued before the ratification of this Constitution, the corresponding judicial action or proceeding shall be filed within six months from its ratification. For those issued after such ratification, the judicial action or proceeding shall be commenced within six months from the issuance thereof.

The sequestration or freeze order is deemed automatically lifted if no judicial action or proceeding is commenced as herein provided."

III. Orders of Sequestration issued by PCGG

During 1986 and 1987 numerous orders of sequestration, freezing or provisional takeover of companies or properties, real or personal, were issued and implemented. Among those were the orders handed out against the firms or assets hereunder listed, with the dates of sequestration, freezing or take-over, to wit:

SUBJECTS/OBJECTS OF SEQUESTRATION

DATE

a.

COCOFED, COCOMARK, CIC, etc., shares of stock of 1,405,366 coconut farmers" in UCPB and of the so-called "CIIF companies" [12] in the same bank

March 19; April 21; June 24, 26; July 8, 1986

b.

Assets of Roberto S. Benedicto, Julita C. Benedicto, including shares of stock in Traders Royal Bank

April 11, May 5, June 4, 1986

c.

Philippine Village Hotel, and all its assets, properties, records and documents

June 6, 1986

d.

Assets and records of Marsteel Consolidated, Inc., Marsteel Corporation, Dayton Metals Corp., Tourist Trade & Travel Corp., Bacolod Real Estate Development Corporation; American-Philippine Fiber Industries, Inc.; Filipinas Micro-Circuits, Inc.

Sept. 22, 1986; Oct. 1, 1986

e.

Silahis International Hotel, Hotel Properties, and Philroad Construction Corporation

May 31, 1986

f.

Marcelo Fiberglass Corporation, and all its assets, properties, records and documents

February 16, 1987

g.

Shares of stock in San Miguel Corporation in the names of so-called "Cojuangco Companies," e.g., Agricultural Consultancy Services, Inc., Meadow Lark Plantations, Silver Leaf Plantations, Pri-mavera Farms; Pastoral Farms, Reddee Develop-ers, Inc., Discovery Realty Corp., First United Transport, Inc.; Archipelago Finance & Leasing Corp., San Esteban Dev. Corp., Balete Ranch, Inc., Oro Verde Services, Inc., Kalawakan Resorts, Inc., Philippine Technologies, Inc., Wings Resorts Corp., Unexplored Land Developers, Inc., Archipelago Realty Corp., Balete Ranch, Inc., etc., Spade One Re-sorts Corporation, Oceanside Maritime Enterprises, Inc., Pura Electric Co., Inc., Punong Bayan Housing Dev. Corp., Southern Service Traders, Inc., North-east Contract Traders, Inc., Habagat Realty Dev., Inc., Labayug Air Terminals, Inc.

April 8, 22, and May 16, 1986

h.

Ternate Development Corporation, Fantasia Filipina Resorts, Inc., Monte Sol Development Corporation, Olas del Mar Dev. Corp., Puerto Azul Ocean Villas Condominium, and their shares of stock, assets, records and documents

March 10 and April 4, 1988

i.

Assets and records of Rodolfo Cuenca, Universal Holdings Corp., Cuenca Investment Corporation, Philippine National Construction Corp. (formerly CDCP), San Mariano Mining Corp., etc.

May 23, 1986, July 23, 1987

j.

Bakunawa Group of Companies (Hi-Tri Dev. Corporation, 7-R Heavy Equipment Co., Inc., 7-R Sales Co., Inc., 7-Ranch, Inc., 7-R Development Corporation), Fishponds

March 15 and April 16, 1986

k.

27 certificates of time deposit issued by UCPB in favor of Kalawakan Resorts, et al.

April 10, 1986

l.

YKR Corporation, Philippine Integrated Meat Corp. (PIMECO), Lianga Bay Logging Co., Inc., Dipudo Industries, Inc., Highway Builders, Inc., Taggat Industries, Inc., together with their assets

April 2, 1986, Mar. 17, June 3, 1986

m.

Shares of stock in Dutch Boy Phils. Inc. held by or registered in the name of REDDEE Developers, Inc., and Traders Holdings and Marketing Inc.

Sept. 30, 1986

n.

6,119,067 common shares in PCIB), and 6,237,339 Benguet Corp. shares in the name of Palm Avenue Realty, Palm Avenue Holdings (pledged with PCIB and Equitable Bank) (allegedly owned by Benjamin [Kokoy] Romualdez), and Trans Middle East Philippine Equities, Inc.

April 5, 15, 1986

o.

Shares of stock of Roberto Benedicto, Jose L. Africa, Victor A. Africa, and Alfredo L. Africa in Philippine Communications Satellite Corporation and Philippine Overseas Telecommunications Corporation

April 11, 1986

p.

Polygon Investors and Managers, Inc., together with all its shares of stock, office premises, records documents, assets and other properties

June 15, 1988 (but writ served on Aug. 3, 1988)

q.

GEI – Guaranteed Education, Inc.

Oct. 24, 1986

IV. Actions Brought in Connection with Orders of Sequestration, Etc.

In connection with these orders of sequestration, freezing or takeover, court actions were also instituted by the PCGG in the name of the Republic of the Philippines, against the persons believed to be owners or holders of the property subject thereof. These actions were invariably denominated suits for "reconveyance, reversion, accounting, restitution and damages." The docket numbers of the actions, the defendants named in the complaints, and the dates of commencement of suit -- as well as those of related proceedings -- are as follows:

CASE NO. DEFENDANTS DATE OF SUIT

No. 0007

Fe Roa Gimenez,
Ignacio B. Gimenez,
Vilma Bautista,
Gregorio Bautista,
Oscar Cariño,
Ferdinand E. Marcos,
Imelda R. Marcos

July 21, 1987

No. 0009

Jose Africa,
Manuel Nieto, Jr.,
Ferdinand Marcos,
Imelda Marcos,
Ferdinand Marcos, Jr.,
Roberto S. Benedicto,
Juan Ponce Enrile,
Potenciano Ilusorio

July 22, 1987

No. 0014

Modesto Enriquez,
Trinidad Diaz Enriquez,
Rebecca Panlilio,
Erlinda Enriquez Panlilio,
Leandro Enriquez, t

he Marcos Spouses,
Don M. Ferry,
Roman A. Cruz, Jr.,
Guillermo Gastrock,
Gregorio R. Castillo,
Ernesto Abalos.

July 23, 1987

No. 0016

Rodolfo Cuenca,
Spouses Marcos,
Nora O. Vinluan,
Oscar P. Beltran,
Saul Y. Alfonso,
Roberto S. Cuenca,
Panfilo Domingo,
Jose L. Africa,
Roberto V. Ongpin,
Ricardo de Leon, et al.

July 24, 1987

No. 0021

Edward T. Marcelo,
Fabian C. Ver,
Marcos Spouses

July 29, 1987

No. 0023

Sps. Luz Reyes Bakunawa,
and Manuel Bakunawa, Jr.,
Manuel Bakunawa III,
Marcos Spouses

July 29, 1987

No. 0024

Peter Sabido,
Roberto S. Benedicto,
Luis D. Yulo,
Nicolas Dehesa,
Spouses Marcos,
Jose R. Tengco, Jr.,
Rafael Sison,
Cesar Zalamea,
Don M. Ferry

July 29, 1987

No. 0025

Antonio V. Martel,
Rodolfo V. Martel,
Jose V. Martel,
Enrique V. Martel,
Alita. V. Martel,
Spouses Marcos,
Don M. Ferry

July 29, 1987

No. 0033

Eduardo Cojuangco, Jr.,
Ferdinand E. Marcos,
Imelda R. Marcos,
Juan Ponce Enrile,
Maria Clara Lobregat,
Manuel (Manda) Elizalde, Jr.,
Jose Aspiras,
Edgardo J. Angara,
Jose C. Concepcion,
Teodoro D. Regala,
Avelino V. Cruz,
Rogelio A. Vinluan,
Eduardo U. Escueta,
Paraja G. Hayudini,
Raul S. Roco,
Cesar C. Zalamea,
Jose R. Tengco, Jr.,
Don M. Ferry,
Alicia LI. Reyes,
Rolando M. Zosa,
Gretchen Cojuangco,
Rolando de la Cuesta,
Enrique Cojuangco,
Marcos Cojuangco,
Danilo Ursua,
Jesus Pineda, Jr.,
Narciso Pineda,
Alex Tanwangco,
Amado Mamuric,
Rafael Abello,
Ernesto Escaler,
Ernest Escaler,
Rodolfo Tinsay,
Renato Sawit,
Homobono Sawit,
Doug-las Luy,
Enrique Luy,

Inaki R. Mendezona,
Bienvenido Marquez, Sr., [13]
Domingo Espina,
J. Reynaldo Morente,
Eladio Chatto,
Jose Martinez, Jr.,
Celestino Sabate,
Sulpicio Granada,
Jose Gomez,
Manuel del Rosario,
Jose R. Eleazar, Jr.,
Francisco Eizmendi, Jr.,
Hermenegildo Zayco,
Francis Gaston,
Norberto Coronel,
Alfredo Tumacder, Jr.,
Antonio Carag,
Jose M. Guerrero,
Bernardo M. Vergara,
Michael de Guzman,
Emmanuel Almeda,
Anastacio Emano, Sr.,
Mohammad Ali Dimaporo,

July 31, 1987

No. 0034

Roberto Benedicto,
Julita C. Benedicto,
Francisca O. Benedicto,
Marciano Benedicto (deceased), Romulo Benedicto, et al.

July 30, 1987

No. 0035

Benjamin (Kokoy) Romualdez (in which intervention by Trans Middle East (Phil.) Equities, Inc. (TMEE) was allowed)

July 31, 1987

[No. 0043

An action for injunction filed in connection with Case No. 0009 by Polygon investors and Managers, Inc.]

Aug. 5, 1988

[No. 0059

Action for prohibition
vs. PCGG filed by
Kalawakan Resorts,
Inc., Habagat Realty
Development Corp.,

Labayug Air Terminals, Inc.,
Punong Bayan Housing Dev. Corp.,
Pura Electric Co., Inc.,
Ocean Side Maritime Ent., Inc.,
Spade One Resorts Corp.,
Unexploded Land Developers, Inc.,
Wings Resorts Corp.]

Dec. 13, 1988

[No. 0061

Action for prohibition
against PCGG filed
by Traders Holdings and
Marketing, Inc.]

Jan. 25, 1989

[No. 0071

Action of quo warranto
and prohibition filed
also by Traders Holdings
and Marketing,
Inc. (later consolidated with
Case No. 0061)]

May 22, 1989

[No. 0110

An action for prohibition
filed by Primavera Farms,
Inc., and 57 others in
relation to Case No. 0033,
supra.]

Oct. 23, 1989

[No. 0114

An action for injunction
in connection with Case
No. 0009 filed by
Philippine Communications
Satellite Corp., and
Philippine Overseas
Telecommunications Corp.]

March 1, 1992

[No. 0136

An action for prohibition
in connection with Case

No. 0014, supra brought
by Silahis Int'l Hotel and
Hotel Properties, Inc.

Sept 19, 1991

[No. 0137

An action for prohibition
in connection with Case
No. 0014, brought by
Philippine Village Hotel, Inc.]

Sept. 23, 1991

[No. 0138

An action for prohibition
in connection with Case
No. 0014, filed by
Ternate Dev. Corp.,
Fantasia Filipina Resorts,
Inc., Monte Sol Dev. Corp.,
Olas del Mar Dev. Corp.,
Puerto Azul Ocean Villas,
Condominium Philroad
Construction Corp.]

Oct. 2, 1991

A brief description of the nature of these cases is appropriate at this point and is now undertaken.

A. Similarities in Allegations and

Prayers of Complaints

The complaints in Cases Numbered 0007, 0009, 0014, 0016, 0021, 0023, 0024, 0025, 0033, 0034 and 0035, all contained substantially the same general averments, to wit:

" * * * (I)n unlawful concert with one another, and with gross abuse of power and authority, Defendants * * :

converted government-owned and controlled corporations into private enterprises and appropriated them and/or their assets for their own benefit and enrichment;

awarded contracts with the Government to their relatives, business associates, dummies, nominees, agents or persons who were beholden to said Defendants, under terms and conditions grossly and manifestly disadvantageous to the government;

misappropriated, embezzled and/or converted to their own use funds of Government financial institutions, those allocated to the Office of the President and other ministries and agencies of the Government including, particularly, those conveniently denominated as intelligence or counter-insurgency funds, as well as funds provided to Plaintiff by foreign countries, multinational, public and private financial institutions;

engaged in other illegal and improper acts and practices designed to defraud Plaintiff and the Filipino people, or otherwise misappropriated and converted to their own use, benefit and enrichment the lawful patrimony and revenues of the Filipino people."

And the common prayer for judgment in all the complaints was in essence as follows:

"a. To return and reconvey to the government all funds and other property impressed with constructive trust in favor of the government and the Filipino people, as well as funds and other property acquired by defendants' abuse of right and power and through unjust enrichment or alternatively, to jointly and severally pay the government the value thereof with interest from the date of unlawful acquisition to full payment;

b. To show to the satisfaction of the Honorable Court that they have lawfully acquired all such funds, assets, and property which are in excess of their legal net income, and for this Honorable Court to decree that defendants are under obligation to account to the government with respect to all legal or beneficial interest in funds, properties and assets of whatever kind and wherever located in excess of their lawful earning."

B. Specific Averments

In addition, there were, of course, statements peculiar to each set of defendants.

1. Case No. 0007

In connection, among others, with the sequestration by the PCGG on October 30, 1986, of the company known as GEI-Guaranteed Education, Inc., a complaint was filed on July 21, 1987 in the Sandiganbayan in the name of the Republic against seven (7) persons, namely: Fe Roa Gimenez and her husband, Ignacio B. Gimenez; Vilma Bautista and her husband, Gregorio Bautista; Oscar Cariño; Ferdinand E. Marcos and Imelda R. Marcos. The complaint identified Fe Gimenez as the Malacañang Social Secretary at the time; Vilma Bautista, as consular official of the Philippine Mission to the United Nations from 1966 to 1986, and confidential secretary of Imelda Marcos; Oscar Cariño, as the Sr. Vice President of the PNB, NY Branch, from June 18, 1973 to September 15, 1985.

The complaint particularly alleged that the Gimenez Spouses acquired assets with a total value of P93,798,129.65 although declaring a total net income of only P955,273.71 during the period from 1981 to 1985; that the Bautista Spouses also acquired assets grossly and manifestly disproportionate to their salaries or lawful income; that Fe Gimenez and Vilma Bautista siphoned millions of dollars of government funds (e.g., from PNB, NY., etc.) into several accounts in foreign countries; that they served as conduits of the Marcoses in the purchase of New York properties such as the Crown Building, the Lindenmere Estate, expensive works of art; acted as dummies of the Marcoses in several corporations; obtained construction contracts thru corporations organized by them (e.g., New City Builders Inc [NCBI]) and thus undertook such projects as the construction of the University of Life Sports Complex and dining hall, and those for the National Manpower Corporation, Human Settlements Commission, GSIS, Maharlika Livelihood. The complaint also asserted that the defendants illegally acquired wealth, itemized in an appended list (marked Annex A), consisting, among others, of real property in various provinces, motor vehicles, money placements, bank deposits, [14] shares of stock in a number of corporations, to wit:

(Ignacio and Fe Roa Gimenez)

- Guaranteed Education Inc
- Acoje Mining Corporation
- Baguio Gold Mining
- Marinduque Mining and Industrial Corporation
- The Energy Corporation
- Basic Petroleum & Minerals, Inc.

- Landoil Resources Corporation
- Lepanto Consolidated Mining Company
- Multi-National Resources
- Oriental Petroleum & Minerals Corporation
- Philippine Overseas and Telecommunication Corporation
- Pioneer Natural Resources
- Sabena Mining Corporation
- San Jose Oil Incorporated
- White Eagle Overseas and Oil
- Apex Mining Corporation
- Atlas Consolidated Mining
- Canlubang Golf and Country Club
- J.B. Gimenez Securities, Inc.
- New City Builders Inc.
- Pyro Control Technology Corporation
- Transnational Products Inc.
- Allied Leasing and Finance Corporation
- Allied Banking Corporation
- Manila Stock Exchange.

2. Case No. 0009

In relation to the sequestration of the assets, properties, records and documents of Polygon Investors & Managers, Inc., the PCGG filed on July 22, 1987, a complaint before the Sandiganbayan for "Reconveyance, Reversion, Accounting, Restitution and Damages" against Jose Africa, Manuel H. Nieto, Jr., the Marcos Spouses, Ferdinand Marcos, Jr., Roberto Benedicto, Juan Ponce Enrile, Potenciano Ilusorio. The action was docketed as Case No. 0009.

The complaint averred particularly that defendants:

- (1) through improper manipulations and arrangements and under highly unconscionable terms and conditions, succeeded in acquiring (a) the shareholdings of the National Development Corporation (NDC) in the Philippine Communications Satellite Corporation (PHILCOMSAT), and (b) the major shareholdings of Cable and Wireless Co. Limited in Eastern Telecommunications Philippines Inc. (ETPI);
- (2) sought to monopolize the telecommunications industry by causing contracts to be entered into between ETPI and corporations owned or controlled by them, such as Polygon Investors and Managers, Inc.;
- (3) through other firms owned or controlled by them, such as Mid-Pasig Land Development Corporation and Independent Realty Corporation, improperly acquired a substantial portion of the shareholdings in Philippine

Overseas Telecommunications Corporation (POTC) - Philippine Communications Satellite Corporation (PHILCOMSAT).

The complaint asserted further that by said illegal means, the defendants came to own and hold properties, real and personal, which should be deemed acquired for the benefit of the Republic, impressed with a constructive trust in favor of the latter and the Filipino people. The property supposedly acquired illegally was specifically set out in a list appended to the complaint as Annex A. Said list included inter alia the shares of stock of Jose Africa in twenty (20) corporations, to wit:

- Domestic Satellite Phils., Inc.
- Philippine Communications Satellite Corp.
- Philippine Overseas Telecommunications Corp.
- Eastern Telecommunications Philippines, Inc.
- Polygon Investors & Managers, Inc.
- Security Bank & Trust Company (and SBTC Trust, Class A: Accounts Nos. 2016, 2017 and 2018)
- Oceanic Wireless Network, Inc.
- Bukidnon Sugar Milling Co., Inc.
- Northern Lines, Inc.
- Far East Managers & Investors, Inc.
- Traders Royal Bank
- Universal Molasses Corp.
- Silangan Investors & Managers, Inc.
- Masters Assets Corp. (Class B)
- Gainful Assets Corp. (Class B)
- Aerocom Investors & Managers, Inc.
- Luzon Stevedoring Corp.
- Amalgamated Motors (Phils.), Inc.
- Philippine National Construction Corp.
- Consolidated Tobacco Industries Corp.

The list also included the shares of stock of defendant Manuel Nieto in fifteen (15) corporations, namely:

- Domestic Satellite Phils., Inc.
- Philippine Communications Satellite Corp.
- Philippine Overseas Telecommunications Corp.
- Eastern Telecommunications Philippines, Inc.

- Polygon Ventures & Land Development Corp.
- Ozamis Agricultural Development, Inc.
- Rang'ay Farms
- Hacienda San Martin, Inc.
- Bukidnon Sugar Milling Co., Inc.
- Silangan Investors & Managers, Inc.
- Oceanic Wireless Network, Inc.
- Integral Factors Corp.
- Aerocom Investors and Managers, Inc.
- Del Carmen Investments, Inc.
- Sunnyday Farms Co., Inc.

3. Case No. 0014

As above stated, in March and April of 1986 (and April, 1988) the PCGG issued orders of sequestration against all assets, properties, records and documents of several companies allegedly owned by Marcos cronies, namely: Philippine Village Hotel, Inc., Silahis International Hotel, Inc., Ternate Development Corporation, Fantasia Filipina Resorts, Inc., Monte Sol Development Corporation, Olas del Mar Development Corporation, Puerto Azul Ocean Villas Condominium, Philroad Construction Corporation, Sulo Dobbs, Inc., Hotel Properties, Inc. Thereafter the PCGG filed with the Sandiganbayan a complaint for "Reconveyance, Reversion, Accounting, Restitution and Damages" against Modesto Enriquez, Trinidad Diaz Enriquez, Rebecca Panlilio, Erlinda Enriquez Panlilio, Leandro Enriquez, the Marcos Spouses, Don M. Ferry, Roman A. Cruz, Jr., Guillermo Gastrock, Ernesto Abalos, and Gregorio R. Castillo. The case was docketed as Civil Case No. 0014. The sequestered corporations themselves were not impleaded as defendants. At the instance of PCGG, the complaint was "expanded," with leave of the Sandiganbayan granted on December 8, 1987.

The complaint particularly alleged [15] that the defendants took advantage of their close relationship with the Marcos Spouses, acted as dummies, nominees or agents in acquiring ownership and control of the corporations above mentioned, and through these firms secured highly unconscionable loans and financial assistance or accommodation from the Government Service Insurance System (GSIS) and Development Bank of the Philippines (DBP). The complaint charged defendants with manipulating the sale in May, 1979 of a parcel of land at Ternate, Cavite (owned by Fantasia Filipina Resorts, Inc.) to the GSIS with the active participation of the latter's then President and General Manager, for a bloated price (amounting to much more than its market value); obtaining from the GSIS a loan in the amount of P71 million to finance the construction of a luxury hotel known as Puerto Azul on the same parcel of land at Ternate, to be managed by said defendants for twenty-five (25) years with option to purchase the property; and also procuring additional loans of P21 million, P25.74 million and P17 million from the GSIS for Fantasia Filipina Resorts, Inc. The complaint also accused defendants of acquiring the controlling interest in the Silahis International Hotel from the Development Bank of the Philippines (DBP), for an undervalued price, by improper means, and in conspiracy with the latter's then Vice-Chairman (Don M. Ferry).

To the complaint was appended, as Annex "A," a list of assets allegedly acquired illegally by the Panlilios and Enriquezes, consisting of shares of stock in twenty-three (23) corporations, to wit:

- Cebu Plaza Hotel
- Universal Hotels and Tourism Development Corp.
- Philroad Construction Corp.
- Silahis International Hotel
- Hotel Properties Inc.
- Phil. Games and Holiday Corp.
- Pacific Tourism Consultants Inc.
- Ternate Development Corp.
- Zamboanga Plaza Hotel
- Monte Sol Development Corp.
- Olas del Mar Development Corp.
- Phil. Village Hotel
- Sulo-Dobbs Food Services Inc.
- Fantasia Filipino Resorts Inc.
- Puerto Azul Beach and Country Club Inc.
- Sulo Hotels Corp.
- Sulo - D & E Inc.
- D & E Realty Inc.
- D & E Inc.
- Sulo Management Co. Inc.
- Ocean Villas Condominium Corp.
- Notions and Potions Inc.
- Sun and Shade Merchandise Inc.

The complaint prayed that the property thus obtained be deemed acquired for the benefit of the Republic, impressed with a constructive trust in favor of the latter and the Filipino people.

After the promulgation by this Court on October 2, 1990 of its Resolution in G.R. No. 92755 involving the International Copra Export Corporation and Interco Manufacturing Corporation (the "INTERCO Case"), [16] the PCGG filed with the Sandiganbayan a motion for admission of a Third Amended Complaint impleading eleven of the above-mentioned corporations as defendants, namely:

- Fantasia Pilipino Resorts, Inc.
- Hotel Properties, Inc.
- Monte Sol Development Corporation

- Ocean Villas Condominium Corporation
- Olas del Mar Development Corporation
- Philippine Village Hotel
- Philroad Construction Corporation
- Puerto Azul Beach and Country Club, Inc.
- Silahis International Hotel
- Sulo-Dobbs Food Services, Inc.
- Ternate Development Corporation

The motion was granted by the Sandiganbayan (Third Division) in a Resolution dated April 3, 1992.

4. Case No. 0016

An order of sequestration was, as also aforestated, issued by the PCGG over Universal Holdings Corporation, and on all shareholdings, rights, and interests of Cuenca Investment Corp. in Philippine National Construction Corporation (PNCC, formerly CDCP). This was followed by the filing by the PCGG of a complaint, docketed as Civil Case No. 0016, against Rodolfo M. Cuenca, the Marcos Spouses, Nora O. Vinluan, Panfilo Domingo, Jose L. Africa, Roberto V. Ongpin, Ricardo P. de Leon, Antonio L. Carpio, Arturo Lazo, Arthur C. Balch, Manuel I. Tinio, Mario K. Alfelor, Rodolfo M. Munsayac, Don M. Ferry.

The complaint particularly averred that Rodolfo M. Cuenca organized and managed the Construction and Development Corporation of the Phils. (CDCP) (originally known as "Cuenca Construction"), and with the active collaboration, knowledge, assistance, and willing participation of the other defendants, obtained favored public works contracts amounting to billions of pesos from the Department of Public Works (later the Department of Public Highways), and from the National Irrigation Administration, such as the construction projects for the Philippine Associated Smelting and Refining Corp. (PASAR), the Philippine Phosphate Fertilizer Corp. (PHILPHOS), the Light Railway Transit Project (LRT), the building of sugar centrals. The complaint also alleged that Cuenca secured loans and financial assistance without sufficient collateral from government financial institutions such as the PNB, which collaborated in the illegal extension and release of such loans and financial assistance to CDCP. Additionally, the complaint declared that Cuenca -

- 1) obtained a favored rescue arrangement at the behest of the Marcoses, through the conversion of a multi-million peso debt in favor of NDC into equity, release of collaterals to his company (CDCP), its subsidiaries and affiliates notwithstanding that it had unpaid obligations, and secured as well the payment to CDCP of government funds in violation of the standing policy against such payments to persons or firms having obligations with the government;
- 2) through Galleon Shipping Corporation, acquired vessels at an inflated consideration paid through dollar loans on the guarantee of the DBP, which loans remain unpaid;
- 3) after Galleon Shipping Corporation defaulted in its obligations, obtained additional financial assistance from government institutions, through the issuance by President Marcos of Letter of Instructions No. 115, which required the National Development Company (NDC) to buy all of Cuenca's shareholdings in Galleon Shipping Corp. and those of the other stockholders or P46.7 million;
- 4) organized the Universal Holding Corporation, a holding company for CDCP, Sta. Ines Malale, and Resort

Hotels, beneficially controlled jointly by him (Cuenca) and the Marcoses; and with the cooperation and participation of the other defendants as directors, officers and/or agents, served as conduits for the deposit abroad of illegally obtained funds and property;

5) through the Security Bank and Trust Company transferred US \$8 Million to CDCP's international bank account with Irving Trust, N.Y., which amount was used by the Marcoses to purchase property in New York.

The assets supposedly acquired by the defendants in an illegal manner were set out in a list attached to the complaint as Annex "A." These are comprised of corporations allegedly owned by Rodolfo Cuenca, namely:

- Communications Strategists Corporation
- Cuenca Investments Incorporated
- Arenia Investment Corp.
- Hydro Resources Construction Corporation
- MRC Construction Resources Corporation
- Filipinas Dravo Corporation
- Ultra International Trading Corporation
- Construction and Development Corporation of the Philippines
- CDCP Mining Corporation
- Philskan Industries Corporation
- BBC Normlec (Phil.) Corporation
- Dasmariñas Industrial and Steel Corp.
- Marina Properties Corporation
- Manila Land Corporation
- Dasmariñas Estates Development Corporation
- Luzon Stevedoring Corporation
- Air Mindanao Corporation
- Builders Insurance Brokers Corporation
- Port Moresby
- Holdings, Kuala Lumpur, Malaysia
- Holdings, Cunching, Sarawak
- Sta. Ines, Malale
- Taurus Financing
- Trading Company, New York
- Trading Company, San Francisco

- Constech, International
- Dans Corporation
- Toros International Limited
- Asian International Hardware Limited
- Construction and Development Corp. of the Phils. (CDCP) America
- Construction and Development Corp. of the Phils. (CDCP) Saudi Arabia
- Construction and Development Corp. of the Phils. (CDCP) Indonesia
- Construction and Development Corp. of the Phils. (CDCP) Singapore
- Construction and Development Corp. of the Phils. (CDCP) Malaysia
- Construction and Development Corp. of the Phils. (CDCP) Hongkong
- Construction and Development Corp. of the Phils. (CDCP) Iraq
- Philippine Associated Smelting & Refining Corp.
- Resort Hotels Corporation
- Wood Marketing Company Hongkong (handles the export sales of Sta. Ines)

Subsequently, the complaint was "amended/expanded" to make its allegations more detailed. After promulgation of the Resolution in the INTERCO case on October 2, 1991, supra, a motion for admission of a Third Amended Complaint was filed by the PCGG on October 18, 1991 in the Sandiganbayan impleading as co--defendants some of the corporations allegedly owned by Cuenca, namely:

- Universal Holding Corporation
- Philippine National Construction Corporation (PNCC), formerly CDCP
- Sta. Ines Malale Forest Products Corporation
- Resort Hotels Corporation
- CDCP Mining, Inc.
- Galleon Shipping Corporation
- Cuenca Investment Corporation.

It does not appear that the motion for admission has been resolved by the Sandiganbayan (First Division).

5. Case No. 0021

The sequestration by the PCGG of all assets, properties, records and documents of Marcelo Fiberglass Corporation was followed by the filing in the Sandiganbayan of a complaint for "Reconveyance, Reversion, Accounting, Restitution and Damages" against Edward T. Marcelo, Fabian C. Ver and the Spouses Marcos. The action was docketed as Civil Case No. 0021. The complaint alleged [17] basically that the defendants ?

1) unlawfully obtained a favored contract with the Philippine Navy for the construction of high-speed fiberglass boats at a cost of hundreds of millions of pesos; and unlawfully collected and received by way of advances 79%

of the contract price, although not a single boat had been delivered;

2) illegally secured a loan with a foreign bank with the "Guarantee of the Government" upon the personal behest of President Marcos, a loan which to date remains unpaid.

The properties allegedly acquired by Marcelo illegally are enumerated in a list attached to the complaint as Annex "A," comprising shares of stock in several corporations, namely:

- Marcelo Fiberglass Corporation
- Philippine Casino Operators Corporation
- Provident International Resources Corporation
- Philippine Smelters Corporation, et al.
- Marcelo Chemical Pigment Corporation
- Marcelo Steel Corporation
- Maria Cristina Fertilizer Corporation
- Marcelo Tire and Rubber Corporation
- Marcelo Rubber & Latex Products Co., Inc.
- Farmer's Fertilizer Corporation
- Insular Rubber Co., Inc.
- Fil-Asia Agro Industries Corporation
- Polaris Marketing Corporation
- "H" Marcelo Corporation

The original complaint was afterwards "amended/expanded" to make its averments more specific. Still later, a motion was presented for admission of a Third Amended Complaint, impleading the corporations above listed and two (2) others, as co-defendants.

- Marcelo Fiberglass Corporation
- Philippine Casino Operators Corporation
- Provident International Resources Corporation
- Philippine Smelters Corporation, et al.
- Philippine Special Services Corporation
- Marcelo Steel Corporation
- Maria Cristina Fertilizer Corporation
- Marcelo Tire and Rubber Corporation
- Marcelo Rubber & Latex Products Co., Inc.
- Farmer's Fertilizer Corporation

- Insular Rubber Co., Inc.
- Fil-Asia Agro Industries Corporation
- Polaris Marketing Corporation
- "H" Marcelo Corporation
- Hydronics Corporation, Philippines
- Marcelo Chemical Pigment Corporation

The motion for admission, as far as is known, is still pending with the Sandiganbayan (Third Division).

6. Case No. 0023

The Bakunawa Group of Companies was sequestered by the PCGG on the theory that the owners thereof — the Spouses Luz Reyes Bakunawa and Manuel Bakunawa, Jr. — were dummies or cronies of the Marcoses. A complaint was later filed by the PCGG with the Sandiganbayan, docketed as Civil Case No. 0023, against Luz Reyes Bakunawa, Manuel Bakunawa, Jr., Manuel Bakunawa III, and the Marcos Spouses. The firms themselves were not impleaded as defendants.

The complaint alleged essentially [18] that the Bakunawas -

- 1) acted as dummies, nominees, and/or agents of the Marcoses and, with the active collaboration, knowledge and willing participation of the other defendants, established several corporations engaged in a wide range of commercial activities, such as construction and cattle ranching;
- 2) secured favored contracts with the Department of Public Works and Communications for the construction of government projects (e.g., Roxas Blvd.) through grossly undercapitalized corporations and without complying with such usual requirements as public bidding, notice and publication of contractors;
- 3) unlawfully acquired heads of cattle from the government dispersal program and raised them on ranch lands encroaching on forest zones;
- 4) unlawfully encroached upon a mangrove-forested section in Masbate, Masbate and converted it into a fishpond;
- 5) unlawfully amassed funds by obtaining huge credit lines from government financial institutions, e.g., PNB, and incorporating into their contracts a cost-escalation adjustment provision to justify collection of grossly arbitrary and unconscionable amounts unsupported by evidence of increase in prices;
- 6) unlawfully imported hundreds of brand-new units of heavy equipment without paying customs duties and other allied taxes amounting to millions of pesos, by falsely representing said heavy equipment to be for official government use and selling them at very low prices to avoid paying the required taxes.

As in the other actions already mentioned, to the complaint in this case was appended a list marked Annex "A," enumerating the assets supposedly constituting the defendants' illegally acquired wealth, comprised of shares of stock in several companies, to wit:

- Seven R Development Corporation
- Seven R Heavy Equipment Company, Incorporated
- Seven R Ranch
- Seven R Sales Company

- Hi-Tri Development Corporation
- Seven R International
- Seven R Enterprises, Incorporated
- Seven R Group of Companies

7. Case No. 0024

On the basis of what it considered sufficient prima facie evidence, the PCGG issued an order placing under sequestration YKR Corporation, Lianga Bay Logging Co., Phil-Asia Food Industries Corporation, Philippine Integrated Meat Corporation, Pepsi-Cola Far East Track Development, Inc., PIMECO Marketing Corporation, Emerald Pizza, Inc., and Pizza Hut Phil. Inc. Thereafter, it filed a complaint for "Reconveyance, Reversion, Accounting, Restitution and Damages" before the Sandiganbayan against Peter Sabido, Roberto S. Benedicto, Luis D. Yulo, Nicolas Dehesa, the Marcos Spouses, Jose R. Tengco, Jr., Rafael Sison, Cesar Zalamea, and Don M. Ferry.

Aside from the general averments common to the other complaints filed by the PCGG for recovery of "ill-gotten wealth," supra, [19] the complaint specifically alleged that defendants -

1) obtained enormous loans from government financial institutions such as the DBP, in favor of Phil-Asia Food Industries Co. beneficially held and controlled by Peter Sabido and the other defendants, including the following:

- a) a foreign currency loan of US \$5,755,663.00 from DBP on December 7, 1979 (under the Export-Import bank of the United States Credit Line) to cover 85% of the cost of machinery and equipment to be imported from Archer DaniIla Midland Corp. of the United States;
- b) another foreign currency loan of US \$6,000,000.00 from DBP on December 7, 1979 (under the International Bank for Reconstruction and Development Credit Line) to cover (1) part of the cost of imported machinery to be procured locally and (2) the direct foreign currency costs of the buildings and improvements to be constructed and (acquisition of) the machinery and transportation equipment; (??)
- c) a direct loan of US \$8,784,877.00 from DBP on December 7, 1979 to be drawn from other foreign borrowings of the DBP to cover part of the cost of acquisition, construction and installation of Phil-Asia's fixed assets;
- d) another foreign currency loan and direct loan in the amount of US \$11,700,000.00 from DBP on January 21, 1982
- e) other loans evidenced by five (5) promissory notes all dated May 13, 1980 in the amounts of US \$145,420.00, US \$8,529,257.00, US \$11,755,663.00, and US \$110,700.00;

2) obtained, under favored and very liberal terms, huge loans from the GSIS in favor of Philippine Integrated Meat Company (PIMECO), a corporation beneficially held and/or controlled by Peter Sabido and the other defendants in the following manner to wit:

- a. On November 2, 1973, PIMECO and GSIS through the Meat Packing Corp. of the Philippines (MPCP) the latter's wholly owned subsidiary, entered into a Lease-Purchase Agreement over the GSIS foreclosed Delta Manufacturing Corp. plant whereby MPCP transferred the Delta meat plant complex to PIMECO for a total consideration of P38,515,789.87 payable within a period of 28 years, interest free. Under the agreement, PIMECO was granted a four-year grace period before amortizing the debt and MPCP undertook to rehabilitate, refurbish and place the plant completely in operational condition. At the time the contract was entered into, PIMECO had only a paid-up capital of P500,000.00.

b. On July 9, 1981, PIMECO and MPCP entered into a Supplementary Agreement to reflect a sum total of P93,695,552.29 as the new contractual obligation of PIMECO to run over a period of 28 years, interest free. The loan and advances were extended to PIMECO notwithstanding the fact that it consistently incurred losses and a steady increase in its deficit from 1976 to 1980.

c. With the issuance of Executive Order No. 572 on December 6, 1979 and Letter of Instructions No. 972 on December 19, 1979, MCPC came to enjoy unwarranted preferential rights in livestock and meat importation through PIMECO and its marketing arm, the PIMECO Marketing Corporation; it thus gained a monopoly in the supply of meat products to the Greater Manila Area.

3) Shortly after the death of his father (the late Roberto Sabido), Sabido installed himself as Chairman of the Board of Lianga Bay Logging Corp. (LIANGA), a domestic corporation which owned and operated a lumber concession in Lianga, Surigao del Sur, and performed acts of depredation inimical to the best interests of the workers, as follows:

a. Through artful cunning, entered into an onerous Management Contract with Lianga Bay Logging Corp. after buying the remaining shares of Georgia Pacific International Corp. from the former corporation in 1982, with a stipulated management fee of P312,375.00/month thereby insuring his perpetual control over the corporation.

b. Debauched the resources of Lianga by paying himself astronomical management fees and collecting other receivables in millions of pesos.

c. Diverted and appropriated to his own personal use and benefit millions of pesos in SSS contributions and accumulated retirement and pension funds of employees.

e. Defaulted in the payment of income, forestry sales, withholding and privilege taxes estimated at approximately P33,000,000.00.

The assets acquired by Peter Sabido on account of his illegal activities were set out in a list appended to the complaint as Annex "A," including shares of stock in the following corporations, namely:

- Lianga Bay Logging Co.
- Phil-Asia Food Industries Co.
- Phil. Integrated Meat Corp.
- YKR Corporation
- Pepsi-Cola Far East Track Development Inc.
- PIMECO Marketing Corp.
- Emerald Pizza Inc.
- Pizza Hut Phil. Inc.

Subsequently, the PCGG filed a motion for admission of an Amended Complaint which impleaded as additional defendants, the following corporations allegedly owned by the original defendants:

- Lianga Bay Logging Corporation
- Philippine Integrated Meat Corporation
- YKR Corporation
- PIMECO Marketing Corporation

The motion was granted by the Third Division of the Sandiganbayan by Resolution dated November 29, 1991.

8. Case No. 0025

On the theory that MARSTEEL Corporation, Marsteel Consolidated, Inc., Dayton Metals Corporation, Tourist Trade & Travel Corporation, and Bacolod Real Estate Dev. Corporation were companies under the influence and/or control of known "Marcos cronies," sequestration orders were issued against them.

A complaint was thereafter filed with the Sandiganbayan by the PCGG against Antonio V. Martel, Rodolfo V. Martel, Enrique V. Martel, Jose V. Martel, Alita R. Martel, the Spouses Marcos, and Don M. Ferry. The claim is that they illegally acquired and control the sequestered corporations. The case was docketed as Civil Case No. 0025. The complaint averred [20] specifically that the defendants Antonio V. Martel et al. -

1) secured for Dayton Metal Corp. (held or controlled by them) a favored contract with the Department of National Defense for the manufacture of mortar shells under PD No. 415, a secret decree marked "not for general circulation," without need of complying with such normal requirements as public bidding, notice and publication of contractors involved in the project;

2) obtained from the DBP direct loans amounting to millions of US dollars for the above-mentioned project; pursuant to said PD 415, Dayton Metals Corp. (DMC), together with other favored companies, cornered and/or monopolized the military hardware requirements of the old Armed Forces of the Philippines; on April 27, 1977, the DBP approved, under Board Resolution 1337, guarantees in the amount of \$4,910,119.00 for the importation of the raw materials needed for the manufacture of ammunition; on March 20, 1980, a direct foreign currency loan of US \$3.5 M was approved in favor of DMC to refinance domestic borrowings of \$1.86 million, the balance of \$1.6 M being intended to finance the capital requirements of DMC;

3) obtained from DBP for the Tourist Trade and Travel Corp. (TTTC), owned and controlled by defendants, a loan amounting to millions of US dollars, under terms and conditions grossly and manifestly disadvantageous to the Government, with the collaboration, knowledge and willing participation of DBP officers; e.g., a loan of P967 million was granted on June 10, 1982 by the DBP to the TTTC to fully liquidate the latter's outstanding obligation to the former;

4) manipulated, with the collaboration, knowledge and willing participation of Don M. Ferry of the DBP, the release to themselves of the insurance proceeds on account of the burning of Harrison Plaza, instead of applying said proceeds to their outstanding loan with the DBP; and a loan of P67 million was granted on June 18, 1982 by the DBP to the TTTC to fully liquidate the latter's outstanding obligation to the former;

5) manipulated the award of a contract to Marsteel Corp., to supply thousands of units of hand tractors which Pres. Marcos ordered the Department of Agrarian Reform to acquire in accordance with PD 287 dated September 6, 1973 (appropriating P140 million for the purpose). Marsteel Corp. was to sell to the Dept. of Agrarian Reform 5,000 units of Kubota hand tractors which Marsteel Corp. contracted to purchase from "TOYOMENKA" a corporation organized under the laws of the State of New York. The CB approved the amount of P6,094,800 to finance the said units and the DBP acted as guarantor. Marsteel did not make payments to its supplier TOYOMENKA, as the DAR installments paid to Marsteel were used to fund other Marsteel operations instead of being used to pay DBP its obligations. In return DBP make good the payment as guarantor.

Corporations in which Rodolfo Martel holds stock, supposedly constituting ill-gotten wealth, are listed in Annex "A" of the complaint, to wit:

- American-Phils. Fiber Industries Corp.

- Armco-Marsteel Alloy Corp.
- Bacolod Real Estate Dev't. Corp.
- Daytons Metals Corp.
- Filipinas Micro-Circuits Inc.
- Marsteel Consolidated Inc.
- Marsteel Corp.
- Multiplex Marketing Corp.
- Plaza Amusement Inc.
- Tourist Trade and Travel Corp.
- Manila Inter-Ocean Lines, Inc.
- San Luis Mining Co.
- Marinduque Mining (in the name of John Martel)
- United Resources Development Corp. (in the name of Luz Martel, Irene Martel and Maria Anette P. Martel)
- Kubota-Marsteel Machinery Co., Inc.
- Okuro-Marsteel Crane Co., Inc.
- Suarez Shipping Co., Inc.
- Associated Development Corp.
- Fabquip Phils. Inc.
- Maranaw Hotels and Restaurant Corp.
- Far East Assembly Corp.
- Phividec Westlake Realty Corp.
- Aquila Phils.
- Eastern Davao Oil Mills
- Great Fortune Shipping Co. S.A.
- Imperial Navigation Co.
- CBO-MC -Manor-SDN BHD
- Astral Limited
- Marble Craft Inc.
- Harrison Plaza Development Corp.
- Agro-industrial Machinery Corp.
- U.S. Export Authority Inc.

- Gabrielle Investment Co. Inc.
- Asia Assembly Corp. (USA)
- Plaza Fashion Mart (TTTC)
- VIP Restaurant (TTTC)
- Candy Bar (TTTC)

Subsequently, by the Sandiganbayan's leave given on December 8, 1987, the Complaint was "amended/expanded" to make its allegations more detailed.

9. Case No. 0033

Case No. 0033 instituted by the PCGG against Eduardo Cojuangco, Jr. and sixty (60) others, [21] related to sequestration orders over the firms known as COCOFED, COCOMARK, CIC, and over the shares of stock allegedly owned by "one million coconut farmers" in UCPB, and the so-called "CIIF" and "Cojuangco companies." [22] The orders were based allegedly on reasonable grounds of belief that Eduardo Cojuangco, Jr., had organized the corporation and had come to own shares therein in his own name or through employment of dummies, nominees or other fellow cronies. The complaint, apart from setting forth the common allegations repeatedly referred to, also averred that:

1) in 1975, with the active collaboration of his co-defendants, Cojuangco manipulated the purchase by the Philippine Coconut Authority (PCA) of 72.2% of the outstanding capital stock of the First United Bank (FUB) which was subsequently converted into a universal bank named United Coconut Planters Bank (UCPB); this was accomplished by the use of P85,773,100.00 initially from the Coconut Consumers Stabilization Fund (CCSF) levy -- contrary to law and the specific purposes for which said levy was imposed and collected under PD 276 -- and under anomalous circumstances, to wit:

a) he (Cojuangco) used the coconut levy funds to exercise his private option to buy controlling interest in FUB; claiming that the 72.2% of the outstanding capital stock of FUB could only be purchased and transferred through the exercise of his "personal and exclusive option to acquire the 144,000 shares" of said bank, he and the Philippine Coconut Authority (PCA), represented by Maria Clara Lobregat, executed on May 26, 1975, a purchase agreement providing, among others, for the cession to him as compensation thereof 95,383 shares worth P1,444,000.00, with the further condition that he shall manage and control the bank as Director and President for a term of five (5) years renewable for another five (5) years, and have authority to name for election three (3) persons of his choice as members of the bank's Board of Directors;

b) he caused the issuance by Pres. Marcos of PD 755 (a) declaring that the coconut levy funds shall not be considered special fiduciary and trust funds and do not form part of the general funds of the National Government — repealing for that purpose PD Nos. 276 and 414 declaring the character of the coconut levy funds as special fiduciary trust and governmental funds: (b) confirming the agreement between him (Cojuangco) and PCA regarding the purchase of FUB, by incorporating that private commercial agreement by reference in PD 755;

c) to consolidate his control of UCPB, he (Cojuangco) imposed as a condition attendant upon his purchase of its stock that he should receive and own one out of every nine shares given to PCA; and

d) to make use of the coconut levy funds to build his economic empire, to the prejudice of the government, he (Cojuangco) caused the issuance by Pres. Marcos of PD 1468 requiring the deposit with UCPB of all coconut levy funds, interest free;

2) again with the use of coconut levy funds, he (Cojuangco) created and/or funded various corporations such as the Philippine Coconut Producers Federation, Inc. (COCOFED), Coconut Investment Company (CIC), COCOFED Marketing Corporation (COCOMARK), and the United Coconut Planters Life Assurance Corporation (COCOLIFE) with the active collaboration and participation of his co-defendants Juan Ponce Enrile, Maria Clara Lobregat, Rolando de la Cuesta, Jose R. Eleazar, Jr. Jose Reynaldo Morente, Eladio Chatto, Domingo Espina, Anastacio Emano, Sr., Bienvenido Marquez, Jose Gomez, Inaki Mendezona, Manuel del Rosario, Sulpicio Granada, Jose Martinez Jr., Emmanuel Almeda, Danilo Ursua, Herminigildo Zayco and Celestino Zabate, most of whom comprised the interlocking sets of officers and directors of said companies; and he and his co-defendants dissipated, misused and/or misappropriated a substantial part of said coconut levy funds and allotted to themselves excessive salaries, allowances, bonuses and other emoluments, for their own personal benefit, including huge cash advances in millions of pesos which, to date remain unliquidated and unaccounted for; and finally, gained ownership and control of the UCPB by misusing the names and/or identities of the so-called "more than one million coconut farmers;"

3) he misappropriated, misused and dissipated P840 million of the Coconut Industry Development Funds (CIDF) -- deposited with the National Industry Development Corporation (NIDC) as administrator-trustee of said shares and later with UCPB of which he (Cojuangco) was the Chief Executive Officer -- in connection with the (1) development, improvement, operation and maintenance of the Bugsuk Island Seed Garden ("Bugsuk") with Agricultural Investors, Inc. ("AII") as developer (both Bugsuk and AII being beneficially held and controlled by Cojuangco); (2) payment of liquidated damages in the amount of P640,856,878.67 and arbitration fees of P150,000.00 pursuant to a decision rendered by a Board of Arbitration against UCPB for alleged breach of contract;

4) he misappropriated and dissipated the coconut levy funds by withdrawing therefrom tens of millions of pesos in order to pay damages adjudged against UNICOM, headed and controlled by Cojuangco, as aforestated, in an anti-trust suit in California, USA;

5) he established and caused to be funded with coconut levy funds, with the active collaboration of Pres. Marcos (through the issuance of LOI 926) and of defendants Juan Ponce Enrile, Jose R. Eleazar, Jr., Maria Clara Lobregat, Jose C. Concepcion, Inaki Mendoza, Douglas Luym, Teodoro D. Regala, Emmanuel Almeda, Eduardo Escueta, Leo Palma and Rolando de la Cuesta, the United Coconut Oil Mills, Inc. (UNICOM), a corporation beneficially controlled by him (Cojuangco), and bought sixteen (16) other competing and/or non-operating oil mills at exorbitant prices in the total amount of P184,935 million, to control the prices of copra and other coconut products, and assumed and paid the outstanding loan obligations of seven (7) of those purchased oil mills in the total amount of P805,984 million with the express consent and approval of Pres. Marcos, thereby establishing a coconut monopoly for their own benefit;

6) with the active participation of defendants Mohammad Ali Dimaporo and Teodoro D. Regala, Cojuangco manipulated the sale of Mindanao Coconut Oil Mills (MINCOCO) to UNICOM through the issuance of LOI 926 by Pres. Marcos in violation of the Guaranty Agreement dated July 23, 1976 which prohibited the sale, among others, of the MINCOCO assets/properties without the prior written consent of NIDC;

7) he drew up a payment scheme to settle the accounts of MINCOCO and other UNICOM-acquired mills with their respective creditors, viz.: the NIDC (National Investment Development Corporation, Development Bank of the Philippines (DBP), Philippine Veterans Bank (PVB);

8) he misused, dissipated and unlawfully disbursed coconut levy funds with the active collaboration and participation of defendants Maria Clara Lobregat, Juan Ponce Enrile, Jose Eleazar Jr., Rolando de la Cuesta and

Herminigildo Zayco for projects of Imelda Marcos, including various donations made by PCA such as the amount of P400,000.00 and P10 million for social services and Mrs. Marcos' health and medical assistance projects; P125,000.00 for the yearly Malang pasko project; P10 million to the Cultural Center of the Philippines; P5 million to the Philippine Youth Health and Special Center; P50 million for the construction of the Tahanang Maharlika building, and P6 million to COCOFED; and other donations made by the UCPB of P10,000.00 to the Manila International Film Festival; P10 million to the UP Faculty Development Fund; P50,000.00 to the Manila Symphony Foundation, Inc., a parcel of land located at Baguio City to the University of Life and "other similar unlawful disbursements", which remain unaccounted for to date;

9) he misused coconut levy funds to buy out the majority of the outstanding shares of stock of San Miguel Corporation in order to control the largest agri-business food and beverage company in the country;

10) he misused coconut levy funds, with the active collaboration of defendants Ernesto O. Escaler and Ernest Escaler to buy out the local partner of Pepsi-Cola, to implement his scheme to monopolize the softdrinks industry;

11) he obtained huge loans and credit privileges from DBP in or about 1981, with the active collaboration of defendants Cesar Zalamea, Jose R. Tangco, Don M. Ferry, Alicia LI. Reyes and Rolando M. Zosa, all members of the Board of Governors of the DBP, in the aggregate amount of P603,343,470.00, for the use and benefit of the Northern Cement Corp., a company beneficially held and controlled by him (Cojuangco), with inadequate collateral and under terms and conditions disadvantageous to DBP;

12) with the active collaboration of defendant Antonio Carag, he obtained the plant, machineries and facilities of Alpha Integrated Textile Mills Inc., for and in favor of Southern Textile mills, Inc., a company beneficially held and controlled by him (Cojuangco); and

13) he obtained in October, 1981, with the active collaboration of defendants Manuel (Manda) Elizalde Jr., Jose Aspiras, Jose M. Guerrero and Bernardo M. Vergara, loans and credits from the Philippine Tourism Authority in the amount of P70 million, for and in favor of the Holiday Village Hotel Philippine, Inc. and Coral Island Resort and Development Corp., corporations beneficially held and controlled by defendants Manuel (Manda) Elizalde Jr., Jose D. Aspiras and himself (Cojuangco) to finance a village resort complex project at San Juan, Batangas which never materialized.

Shares of stock of Eduardo Cojuangco, Jr. in close to two hundred and fifty (250) corporations, allegedly constituting illegally acquired assets, are set forth in a list appended to the complaint as Annex "A," namely:

- Agricultural Consultancy Services Corp.
- Agricultural Investors Incorporated
- Anchor Insurance Brokerage Corp.
- Aquacor Food Marketing Corp.
- Aquacultural Investors Inc.
- Autonomous Development Corp.
- Balete Ranch Incorporated
- Bugsok Island
- Bukidnon Farms Incorporated
- Cagayan de Oro Oil Company Incorporated

- Challenge Corporation of the Phils. (PEPSI)
- Cocoa Investors Incorporated
- Cocofed Marketing Co.
- Coconut Investment Corporation
- Coconut Producers Federation of the Phils.
- Cojuangco (Central) Resources Corp.
- Consultants Manila Incorporated
- Coral Islands Resort and Development Corp.
- Countryside Millers Incorporated
- Daal Corporation
- DH, Incorporated (Diversified Holdings)
- Dutch Boy Philippines, Incorporated
- E. Cojuangco, Jr. and Sons, Incorporated
- E. M. Cojuangco & Sons Agricultural Enterprise Incorporated
- BCI, Challenge Incorporated
- Filsov Shipping Agency
- First United Transport Incorporated
- First United Travel
- Granex
- Hacienda Fe, Incorporated
- HYCO Agricultural Incorporated
- ILICOCO, Iligan Coconut Industry
- INDOPHIL (OLA), Oil Mills, Incorporated
- Interco Manufacturing Corporation
- International Copra Export Corporation
- Jewel-Mer International Corporation
- Legaspi Oil Company Incorporated, Cagayan de Oro City
- Legaspi Oil Company Incorporated, Davao City
- Metroplex Commodities Incorporated

- MINDOPHIL

- Northeastern Agro-Industrial Development Corp.
- Northern Carriers Corporation
- Northern Cement Corporation
- Palm Oil Project
- PCY Oil Manufacturing Company Incorporated
- Prosperidad Agricultural Corporation
- San Miguel Corporation
- San Miguel Farm
- Sierra Madre Wood Industrial Corporation
- Southern Island Oil Mills Corporation
- Southern Textile Mills Incorporated
- Taggat Industries Incorporated
- United Cocoa Planters Incorporated
- United Coconut Planters Bank
- United Sari-Sari and Livelihood Corporation
- Vaness Corporation
- Venture Securities
- Radyo Pilipino Corporation
- Philippine Cement Manufacturing Corp.
- Granexport Manufacturing Corp.
- Pacific Union Insurance Company
- United Coconut Planters Life Assurance Corp.
- Ernesto Oppen Incorporated
- Manila Peninsula Hotel
- Eastern Pacific Drydock Corporation
- Bulletin Publishing Corporation
- Philex Mining Corporation
- Philippine Overseas Drilling and Oil Development Corporation
- Welding Industries
- Consolidated Farms

- Pfizer Incorporated
- Trans-Asia Oil and Mineral Development Corp.
- DWRL AM Radio Station
- DXOW Radio Station
- DYCU AM Radio Station
- Anca Corporation
- Anglo Ventures, Inc.
- AP Holdings, Inc.
- ARC Investors
- ASC Investors
- Atini Developments
- Basic Agri and Aqua Ventures Corporation
- Basic Agri Ventures
- Belmon Reds Philippine Corporation
- Core Foundation, Inc.
- Diversified Holdings, Inc.
- Echo Ranch, Inc.
- Mantrade Incorporated
- First Meridian Development, Inc.
- Fernandez Holdings, Inc.
- Fiscal Managers, Inc.
- La Purisima Agricultural Corporation
- Matrix Manufacturing Corporation
- Multivisions, Inc.
- Nobel Philippines
- Paniqui Producers Marketing Corporation
- Pegasus Shipping Corporation
- Philippine Radio Communication
- Loreto Forest Land Developers
- Phil. Bakers, Inc.
- Phil. Technologies, Inc.

- Radio Corporation of the Philippines
- Randy Allied Ventures, Inc.
- R & E Agricultural Corporation
- Reddee Developers, Inc.
- Rock Steel Resources
- Roxas Shares, Inc.
- San Miguel Officers Corporation, Inc.
- Soriano Shares, Inc.
- Southern Luzon Coconut Oil Mills, Inc.
- SMC Shipping and Lighterage Corporation
- Sta. Irene Agro forest Developers, Incorporated
- Te Deum Resources, Inc.
- UCPB Realty Co., Inc.
- Toda Holdings, Inc.
- United Coconut Chemicals
- United Coconut Oil Mills, Inc.
- United Janitorial & Manpower Services Corporation
- Valhalla Properties Ltd., Inc.
- Oriental Petroleum and Mineral Corporation
- Meralco
- The Shell Chemicals Company (Phil.) Inc.
- 1Globe-Mackay and Radio Corporation

- PLDT

- Radio Incorporated
- Philippine Radio Corporation
- DZYR
- DZYS

- DZYM

- **DYRM**

- **DWRN**

- **DZLT**

- **DZXT**

- **DXJM**

- **DXGS**

- **DXOC**

- **DXOW**

- **DYOL**

- **DZYA**

- **DXTC**

- **DXCU**

- Allied Guarantee Assurance Company, Inc.
- Commercial Motors Corp. – L
- Action Builders Consultancy Incorporated
- Agricultural Pathfinders Incorporated
- Agro-Forest Land Developers
- Agusan Corporation
- Allied Guarantee Insurance Corporation
- Orient Farmland Development Corporation
- Archipelago Finance & Leasing Corporation
- Archipelago Realty Corp.
- Bicol Coconut Planters Trading Incorporated
- Black Stallion Ranch
- Central Resources Corporation
- Central Communication System
- Christensen Plantations Incorporated
- Coconut Industry Foundation Incorporated

- Corporate Counselors Incorporated
- Data Managers Incorporated
- Davao Coconut Planters Trading Incorporated
- Discovery Realty Corporation
- Dream Pastures Incorporated
- ECJ & Sons Farmers Foundation Incorporated
- ECJ Condominium Corporation
- Esperanza Forest Developers, Inc.
- Far East Ranch, Inc.
- G & E Realty and Development Corp.
- Golden Times Trading Company Incorporated
- Growth Trading Corporation
- Habagat Realty Development Corporation
- Hydro Resources Contractors Corp.
- Inner Huns Agricultural Developers Inc.
- Integrated Labor Resources
- Integrated Sea Development Association Inc.
- Interpublic Associates, Inc.
- J & E Development Corporation
- Kabuhayan Agricultural Development Corporation
- Kalawakan Resources Incorporated
- Kalusugan Agro-Development Incorporated
- Kaunlaran Agricultural Corporation
- Labayug Air Terminal, Inc.
- Land Air Internal Marketing Corp.
- Leyte Coconut Planters Trading Incorporated
- LHL Cattle Corporation
- 1Loreto Forest Development Corporation
- Los Arcos Agricultural Corporation
- Lucena Oil factory Incorporated
- Meadow-Lark Plantation Incorporated

- Mermaid Marketing Corporation
- Midland Cement Corporation
- Mirador Hills Realty Incorporated
- Misty Mountain Agricultural Corporation
- Multi-Properties Incorporated
- Multi-Visions Incorporated
- Northeast Contact Traders Incorporated
- Northern Consolidated Corporation
- Northern Mindanao Coco Planters Trading
- Oceanside Maritime Enterprises Inc.
- Oro Verde Services, Inc.
- Pastoral Farms Inc.
- People Builders Inc.
- Philippine ARC Welding & Manufacturing Corp.
- Philippine Construction Materials
- Primavera Farms Inc.
- Punong-Bayan Housing Development Corp.
- Pura Electric Corp.
- Radio Audience Development
- Integrated Organization Inc.
- Rancho Grande Incorporated
- Rock Hills Land Improvers & Developers Inc.
- S & A Agricultural Corp.
- San Esteban Development Corp.
- Silverleaf Plantation Corporation
- Southern Contract Traders Inc.
- Southern Service Traders Inc.
- Southern Star Cattle Corp.
- Spade One Resort Corp.
- Tagalog Coco-Planters Trading
- Traders Holdings Inc.

- Unexplored Land Developers Inc.
- Uni-Group Inc.
- United Agusan Agro-Forest Development Corp.
- United Cocoa Plantations Inc.
- United Coconut Planters International
- United Human Resources Management Corp.
- United Plaza Properties Inc.
- United Stock Transfer Registry Inc.
- Verdant Plantation Inc.
- Vesta Agricultural Corp.
- Visayan Coconut Planters Trading Inc.
- Wings Resort Corp.
- Woodsmen Agro Development Inc.
- Zamboanga Coconut Planters Trading Inc.
- National Stevedoring and Lighterage Company
- San Pablo Oil Manufacturing Company Inc.
- Maximum Trading Corp. (MATICO)
- Southern Plywood Corp.
- Universal Motors Corp. – L
- Pamplona Redwood Veneer Co.
- September Trading & Industrial Corp.
- Veteran Woodworks, Inc.
- Western Cagayan Lumber

Again, as in the other actions, the complaint in this case was "amended/expanded" to make the allegations more specific. After issuance of the Resolution in the "INTERCO case," supra, the PCGG filed a motion for the admission of a Third Amended Complaint impleading seventy-seven (77) of the corporations above listed as defendants. The motion was granted and the third amended complaint admitted in a Resolution dated February 3, 1992 issued by the Sandiganbayan, Third Division.

10. Case No. 0034 [23]

On July 30, 1987, PCGG filed before the Sandiganbayan a case for Reconveyance, Reversion, Accounting and Damages against other so-called cronies of the Marcoses: Roberto Benedicto, et al. The case was docketed as Civil Case No. 0034. The complaint alleged that defendants had acquired funds and property in flagrant breach of trust and of their fiduciary obligations as public officers. The properties, real and personal, allegedly acquired

unlawfully, were listed in an annex (marked A) attached to the complaint.

On November 3, 1990, Benedicto entered into a Compromise Agreement with the PCGG wherein the former agreed to cede and assign in favor of the latter certain sequestered properties subject of Civil Case No. 0034 (Inter-Continental Broadcasting Corporation [IBC-13]; Radio Philippines Network [RPN-9]; and Banahaw Broadcasting Corporation [BBC-2]). The Compromise Agreement was submitted by the parties to the Sandiganbayan for approval. The propriety of such a compromise agreement was unsuccessfully challenged in this Court, [24] the Court declaring that its execution was within the PCGG's competency although its final approval properly appertained to the Sandiganbayan. [25] The Compromise Agreement eventually received approval of that Court (Second Division) in due course and, having afterwards been fully implemented, effectively put an end to the controversy. [26]

11. Case No. 0035

On April 5, 1986, the PCGG sequestered 6,237,339 shares of Benguet Corporation in the name of Palm Avenue Realty and Development Corporation (PAR) and Palm Avenue Holdings, Inc. (PAH), on the theory that these were illegally acquired by Benjamin ("Kokoy") Romualdez. These shares had been pledged with PCIBANK and Equitable Bank as security for certain loans, and were about to be sold at public auction because the loans were all past due.

On April 15, 1986, the PCGG also sequestered 6,119,067 common shares of stock of PCIBank (Philippine Commercial & Industrial Bank), registered in the name of Trans Middle East (Phil.) Equities, Inc. (TMEE), also on the theory that they actually belonged to Benjamin Romualdez and constituted "illegally acquired wealth."

To recover these shares, and many others also sequestered, [27] a complaint was filed in the Sandiganbayan against Romualdez, docketed as Civil Case No. 0035; but the ostensible owner-corporations [Palm Ave. Realty and TMEE] were not themselves impleaded.

The complaint particularly alleged that Romualdez -

1) Obtained — with the active collaboration of defendants Senen J. Gabaldon; Mario D. Camacho; Mamerto Nepomuceno; Carlos J. Valdez; Delia Tantuico; Jovencio F. Cinco; Cesar C. Zalamea; Francisco Tantuico; Atty. Jose Bengzon, Jr. and his law partners (namely: Edilberto S. Narciso, Jr., Jose Vicente E. Jimenez, Amado V. Faustino, Jr., and Leonardo C. Cruz); Jose S. Sandejas and his fellow senior managers of FMMC/PNI Holdings groups of companies (such as Leonardo Gamboa, Vicente T. Mills, Jr., Jose M. Mantecon, Abelardo S. Termulo, Rex C. Drillon II and Kurt Bachmann, Jr.) — control of some of the biggest enterprises in the Philippines, such as Manila Electric Company (MERALCO), Benguet Consolidated Mining Corp. (Benguet), Pilipinas Shell Corp. and the Philippine Commercial & International Bank (PCI Bank), through employment of devious financial schemes and techniques entailing the massive infusion (or hemorrhage) of government funds with a minimum or negligible "cash-out" from him (Romualdez), the general features of his classic take-over bid being as follows:

a) the take-over assumed as avowed and ostensible objectives, a declared national policy: in MERALCO, it was the diversification of ownership in a vital public utility; in Benguet and Pilipinas Shell, nationalization in anticipation of the expiration of the Laurel-Langley Agreement;

b) the shares were placed in the name of corporations organized solely for the purpose of holding title to them, said corporations having no operating history or financial track record, and projected cash flow consisting almost solely of future and contingent dividends on the shares held; despite these limitations, the companies somehow came to enjoy excellent credit lines from banks and other financial institutions, as evidenced by the millions of pesos in loans and guarantees outstanding in their books;

c) the "seed money" used to wrest control came from government and taxpayers' money in the form of millions of pesos in loans, guarantee and standby L/Cs from government financial institutions, notably the DBP and PNB, which in turn rediscounted the obligations with the Central Bank;

d) additional funding was provided from other related interests; and

e) this intricate skein of inter-corporate dealings was controlled and administered by an exclusive, interlocking and closely knit directorate and officership.

2) accorded undue advantage to MERALCO (a) by effecting the increase of power rates with automatic authority to tack into the consumers' electric bills the so-called purchase and currency adjustment, and (b) by reducing in collaboration with others, the electric franchise tax from 5% to 2% of gross receipts and the tariff duty on fuel oil imports by public utilities from 20% to 10%, resulting in substantial savings for MERALCO but without significant benefit to the consumers of electric power, and loss of millions of pesos in much needed revenues to the government;

3) burdened MERALCO consumers with the heavy cost of purchasing, maintaining and operating two airplanes and one helicopter for his (Romualdez) personal use;

4) formed the MERALCO Foundation Inc. (MFI) to gain control of the MERALCO group of companies upon a false commitment, among others, to free Eugenio Lopez Jr., from detention and transform MERALCO into a cooperative; in reality, defendants used MFI's tax-exempt status as a convenient tax and financial shelter;

5) using public funds, took over and appropriated electric cooperatives, such as (1) Rizal Electric Cooperative and Talim Electric Cooperative, which were owned by the electric consumers in seven Rizal towns; (2) the electric firms in Laguna and Quezon; (3) the First Cavite Electric Cooperative, Inc.; (4) three electric cooperatives in Bulacan; (5) the Communications and Electricity Development Authority in Cavite and (6) the San Mateo Electric Light and Power company -- without just cause and without compensation to the owners thereof;

6) with the active collaboration of Imelda Marcos, Chairman of the Board of Administrators of the National Electrification Administration (NEA), caused the revocation of the franchise earlier granted to the above-mentioned cooperatives by the National Electric Commission, in order to expand MERALCO operations around Manila, to the exclusion and gross disadvantage of other electric cooperatives;

7) in a veiled attempt to justify MERALCO's anomalous acquisition of the electric cooperatives, and with the active collaboration of defendants Jose C. Hernandez, Juanito R. Remulla, Isidro Rodriguez, Cesar E.A. Virata, Pedro Dumol, Ricardo C. Galing, Francisco C. Gaitmaitan, Mario D. Camacho, etc., secured the approval by Pres. Marcos and his cabinet of the so-called "Three-year Program for Extension of MERALCO's Services to Areas Within the 60-Kilometer Radius of Manila," which required government capital investment amounting to millions of pesos;

8) manipulated the assumption by MERALCO of the electric cooperatives' restructured obligations with the National Power Corporation (NPC) and soft loans with the NEA, at an exceedingly low interest rate of 3% per annum, payable in thirty-five years, to further facilitate the unlawful appropriation of the electric cooperatives;

9) caused the Issuance of PD 40 which commanded (1) the sale of MERALCO base load power plants to the National Power Corporation (NPC) at an exorbitant price, generating for MERALCO a net profit of more than P208.2 Million, and (2) the assumption by NPC of the foreign loans and other obligations of MERALCO;

10) with the active collaboration of his co-defendants, effected the sale of the shareholdings of the First Philippine Holding Corp. in the Philippine Commercial International Bank (PCIB) to Trans Middle East Philippine Equities

Inc., a front organization of his (Romualdez), in order to gain control of PCIB with a minimum or negligible "cash out;" the acquisition of said PCIB shares was packaged by PCIB, and financed by PCIB and the Philippine Commercial Capital, Inc. through loans extended to SOLOIL Inc., for and in behalf of Trans Middle East Philippines Equities, Inc.; the funding by PCIB of the purchase of shares of its own capital stock violated banking laws, rules and regulations concerning (1) loans to Directors, Officers, Stockholders and Other Related Interests (DOSRI), (2) single borrowers limit (SBL), (3) disclosure requirements, and (4) the duty to ascertain identity of borrower and purpose of loan;

11) took over and appropriated for his own personal gain and benefit the business and publication of daily newspapers belonging to critics or opponents of the Marcos dictatorship;

12) with the active collaboration of defendants Jose Sandejas, Francisco Tantuico and Dominador G. Ingco, caused the National Investment and Development Corporation (NIDC) to dispose of its interest in the oil plants located in Tanauan, Leyte -- owned and operated by its subsidiary, the NIDC Oil Mills, Inc. -- in favor of the SOLOIL, Inc., a corporation beneficially held and controlled by him (Romualdez), under terms and conditions grossly disadvantageous to the NIDC;

13) with the support, assistance and collaboration of Philguarantee officials and the senior managers of FMMC/PNI Holdings, Inc. led by Jose S. Sandejas, Jr., Jose M. Mantecon and Kurt S. Bachmann, Jr. among others -- manipulated the formation of Erectors Holdings, Inc. without infusing additional capital, solely for the purpose of making it assume the obligation of Erectors Inc. with Philguarantee in the amount of P527,387,440.71, with insufficient security, and thus make Erectors Inc. appear viable and enable it to borrow more capital, with the result that its obligation with Philguarantee reached a total of more than P2 Billion as of June 30, 1987;

14) at the onset of the present Administration and/or within the week following the February 1986 People's Revolution, in conspiracy with and with the support, assistance and collaboration of, the above-named lawyers of the Bengzon Law Offices, manipulated, schemed, and/or executed a series of devices intended to conceal and place beyond the inquiry and jurisdiction of the PCGG the defendants' individual and collective funds, properties and assets subject of and/or involved in the instant complaint;

15) with the technical know-how and legalistic talents of the FMMC senior managers and retained lawyers, maneuvered the purported sale of his (Romualdez's) interests in the (1) Professional Managers, Inc., (2) A & International Corp (A & E) (3) First Manila Management Corp. (FMMC), (4) Maguindanao Navigation (MNI), (5) SOLOIL Inc., (6) Philippine World Travel Inc. (PWTI) and its subsidiaries (consisting of 36 corporations in all) to PNI Holdings, Inc. (whose purported incorporators are all members of his retained law firm) for only P5 million, on March 3, 1986 or three days after the creation of the PCGG on February 28, 1986; this, for the sole purpose of deceiving the Government particularly the PCGG, and making it appear that the defendant Romualdez had already divested himself of his ownership of the same when in truth and in fact, his interests are well intact and protected by his retained attorneys together with FMMC senior managers, who still control and run the affairs of said corporations, and in order to entice the PCGG to approve the said fictitious sale, the above-named defendants offered P20 million as "donation" to the Government;

16) with the connivance, support and technical assistance of his retained law firm, together with defendants Cesar Zalamea, Antonio Ozaeta, Mario D. Camacho and Senen J. Gabaldon as members of the Board of Directors of the Philippine Commercial International Bank (PCIB), misused the Meralco Pension Fund in the amount of P25 million by causing it to be invested in the PCIB, and through the Bank's TSG, assigned to PCI Development and PCI Equity at 50% each, the Fund's (a) 8,028.0011 common shares in the Bank and (b) "Deposit in Subscription" in the amount of P4,929,972.50, but of the agreed consideration of P28 million for the said assignment, PCI

Development and PCI Equity were able to pay only P5,500 down payment and the first amortization of P3,937,500.00, thus prompting the Fund to rescind its assignment, and the consequent reversion of the assigned shares brought the total shareholdings of the Fund to 11,470,555 voting shares or 36.8% of the voting stock at PCIB; and this development (which the defendants themselves orchestrated or allowed to happen) was used by them as an excuse for the unlawful dismantling or cancellation of the Fund's 10 million shares for allegedly exceeding the 30-percent ceiling prescribed by Section 12-B of the General Banking Act, although they knew for a fact that what the law declares as unlawful and void ab initio are the subscriptions in excess of the 30% ceiling "to the extent of the excess over any of the ceilings prescribed .. " and not the whole or entire stockholding which they allowed to stay for six years (from June 30, 1980 to March 24, 1986);

17) through the use of the names and managerial expertise of the FMMC senior managers identified as Jose B. Sandejas, Leonardo Gamboa, Vicente T. Mills, Abelardo S. Termulo, Edilberto S. Narciso, Jr., Jose M. Mantecon, Rex C Drilon II, Kurt Bachmann, Jr., together with the legal talents of corporate lawyers, cleverly hid behind the veil of corporate entities, his ill-gotten wealth including among others, the 6,229,177 shares in PCIB registered in the names of Trans Middle East Phils. Equities, Inc. and Edilberto S. Narciso, Jr., which they refused to surrender to PCGG despite their disclosure, as they tried and continue to exert efforts in getting hold of the same, as well as the shares in Benguet registered in the names of Palm Avenue Holdings and Palm Avenue Realty Development Corp. purportedly to be applied as payment for the claim of P70 million of "a member company of the First Manila Management Corp. group" supposedly owned by them although in truth, all said firms are still beneficially owned by said defendant Benjamin Romualdez.

The assets alleged to have been illegally acquired by Romualdez are enumerated in a list attached to the complaint as Annex "A," consisting of shares of stock in sixty-one (61) corporations, to wit:

- Phil-Commercial Capital Inc.
- Erectors Inc.
- Erincor Development Corp.
- Professional Management Inc.
- Pilipinas Automotive Credit Corp.
- Philhino Sales Corp.
- Pilipinas Transport Industries Inc.
- Agro-Tech Corporation
- Filmarine Shipping Corp.
- Integrated Industrial Agronomics Inc.
- Maranao Navigation Corp.
- Gamma Realty Corporation
- Philworld Charter & Travel Services Inc.
- Pilipinas Maintenance Services Corporation
- Pilipinas Magnetix Incorporated
- Metro Motors Incorporated

- Data Systems Services Incorporated
- Service Systems Incorporated
- A & E International Corporation
- PSEI Holding Incorporated
- Genesia Management and Development Corp.
- International Heavy Equipment Corporation
- St. Bernard Services Corporation
- Philippine Hawk Transport Corporation
- Mantrade Development Corporation
- Badjao Navigation Corporation
- Power Contractors Incorporated
- Asian Specialists Contractors Incorporated
- PSEI Transport Corporation
- Maguindanao Navigation
- Manila World Traders
- Meralco Foundation Incorporated
- Tacloban City Ice Plant
- East Visayan Broadcasting Station
- Chinatown Publishing Corporation
- Central Citigas Station
- Philippine Commercial and Industrial Bank
- First Philippine Holdings Corporation

- MERALCO

- Busali Stud Farms
- Travel Agency New York
- Aviles Realty Corporation
- Benguet Corporation
- Capital City Realty Development Corporation
- First Manila Management Corporation
- First Phil. Industrial Corporation

- Palm Ave. Realty Development Corporation
- Palm Ave. Holdings Incorporated
- Philippine Journalist Incorporated
- Philtranco Service Enterprise
- Pilipinas Hino
- Pilipinas Nissan
- Repro Color Center Incorporated

- PR - TV -12

- Soloil Incorporated
- Universal Broadcasting Corporation
- Visayan Maritime Academy
- DYBR - radio station
- DYMM - AM radio station
- Tubigan House
- Pilipinas Shell Petroleum Corporation

V. PCGG's Theory of the Case, Generally

As will be noted, the theory of the PCGG in all these eleven (11) actions (Cases Numbered 0007, 0009, 0014, 0016, 0021, 0023, 0024, 0025, 0033, 0034, 0035) is in essence that the natural persons named as defendants in the complaints took advantage of their public offices, their closeness to President and Mrs. Marcos, and their prestige, power and influence in order to set up corporations over which they wield overt or secret control; or to acquire substantial holdings in, and control of, existing corporations; and generally, through or with the aid of these firms, to manipulate or misappropriate public funds and property and employ pressure and undue influence to amass immense assets and wealth. The complaints commonly assert that the defendants acted "singly or collectively and in unlawful concert with one another," and their reprehensible activities included "the misappropriation and theft of public funds, plunder of the nation's wealth, extortion, blackmail, bribery, embezzlement and other acts of corruption, betrayal of public trust and brazen abuse of power," at the expense and to the grave and irreparable damage of the Government and the Filipino people.

The cognate reliefs sought by the PCGG in its complaints are the return and reconveyance to the Government of all funds and other property unlawfully acquired by the defendants, and consequently impressed with a constructive trust in favor of the Government and the Filipino people, as well as of the funds and other property acquired by their abuse of right and power through unjust enrichment; and the requirement or command that said defendants account for all legal or beneficial interests in funds properties and assets of whatever kind and wherever located, in excess of their lawful earnings.

VI. Omission to Implead Corporations Referred to in PCGG Complaints

The corporations in which the defendants (natural persons) allegedly own substantial interests and which are subject to their control — whether organized by them, their dummies or co--conspirators, or previously existing

but subsequently coming under their power -- were not impleaded as defendants but were merely mentioned or listed, and specifically described in the complaints as instruments for illegal acquisition of wealth, or as depositaries of illegal wealth, or as constituting the fruits thereof.

VII. Lifting of Sequestration by Sandiganbayan on Account of Said Omission, and Actions in this Court for Review Thereof

This negative circumstance, perceivable in all the complaints -- i.e., that the sequestered corporations were simply listed and described in the complaints (as the instruments, depositaries or fruits of ill-gotten wealth) but were not explicitly impleaded as parties defendant -- was to prove procedurally calamitous to the PCGG. For that omission was seized upon by the defendants as the basic premise of motions for the lifting of the orders of sequestration effected on those corporations, on the theory that as to them no proper judicial actions had been filed within the time and in the manner required by Section 26, Article XVIII of the 1987 Constitution and, therefore, their sequestration should be deemed automatically lifted.

Said constitutional provision, quoted earlier in this opinion, [28] pertinently provides the following: [29]

"A sequestration or freeze order shall be issued only upon showing of a prima facie case. The order and the list of the sequestered or frozen properties shall forthwith be registered with the proper court. For orders issued before the ratification of this Constitution, the corresponding judicial action or proceeding shall be filed within six months from its ratification. For those issued after such ratification, the judicial action or proceeding shall be commenced within six months from the issuance thereof.

The sequestration or freeze order is deemed automatically lifted if no judicial action or proceeding is commenced as herein provided."

Upon the foregoing premises, the Sandiganbayan promulgated resolutions in the various cases pending before it for recovery of ill-gotten wealth, declaring as automatically lifted the sequestrations imposed prior to the ratification of the Constitution on February 2, 1987, on the corporations listed or mentioned in the PCGG complaints, there having been no "judicial action or proceeding" individually and particularly instituted against them on or before August 2, 1987.

These resolutions are specified and more particularly dealt with in the following paragraphs, beginning with those promulgated in or in connection with Case No. 0033, since these happen to be the most numerous among all the cases herein dealt with.

A. Case No. 0033

On November 19, 1990 the Sandiganbayan (First Division) issued a Resolution in Case No. 0033 lifting the sequestration orders over the Philippine Coconut Federation, Inc. (COCOFED), Coconut Investment Company (CIC), COCOFED Marketing Corporation (COCOMARK), and the shares of stock of over one million coconut producers/farmers (except those registered in the names of the individual defendants in Case No. 0033) in the United Coconut Planters Bank (UCPB) and in the so-called "CIIF companies," [30] on the ground that said companies were not impleaded as party defendants within the 6-month period fixed in the Constitution, ending on August 2, 1987 -- but were merely mentioned as entities organized, controlled or used by the defendants (i.e., as instruments for acquisition, or depositaries, or the fruits, of illegal wealth).

1. G.R. No. 96073

This Resolution is now subject of a challenge before this Court through a special civil action of certiorari initiated by the PCGG, docketed as G.R. No. 96073.

2. The "Interco" Case

A similar disposition was made by the Sandiganbayan as regards two (2) of the corporations separately sequestered by the PCGG, i.e., International Copra Export Corporation and Interco Manufacturing Corporation, and included in the list of "ill-gotten" properties appended to the complaint in said Case No. 0033.

These firms were sequestered under separate orders dated June 10, 1987 on the theory that Eduardo Cojuangco, Jr. beneficially owns shares of stock therein which, however, had been placed in the names of "dummies" or nominees — like Enrique Luy, who appears as the majority stockholder of both corporations, and who was included as one of the defendants in Case No. 0033. After two years or so, these companies assailed the sequestration orders in this Court in a certiorari action (docketed as G.R. No. 86989). The matter was however referred for proper disposition to the Sandiganbayan, which docketed the same as Case No. 0086. After due hearing, the Sandiganbayan rendered judgment thereon, dated March 29, 1990, sustaining the theory of the petitioner firms that the orders of sequestration effected on them had been rendered ineffective as a result of the PCGG's failure to file the proper judicial action or proceeding against them within the time prescribed by Section 26 of Article XVIII of the Constitution.

The Judgment of March 29, 1990 was upheld by this Court in a special civil action of certiorari initiated by the PCGG, docketed as G.R. No. 92755, in an unsigned but extended resolution dated October 2, 1990. The resolution pointed out that the inclusion of Enrique Luy, ostensible principal stockholder of the corporations involved, as defendant in Case No. 0033 could not be deemed substantial compliance with the constitutional requirement above mentioned, since corporations have legal personalities distinct and separate from their stockholders; and that there was no evidence that "the shareholdings of Enrique Luy are beneficially owned by Eduardo Cojuangco Jr.," this being a matter still to be established in Civil Case No. 0033." [31]

3. G.R. No. 104850

Some of the supposedly "dummy" or "shell" companies listed in Annex "A" of the complaint in Case No. 0033 — Primavera Farms, Inc., Agricultural Consultancy Services Inc., Archipelago Realty Corporation, Balet Ranch, Inc., Black Stallion Ranch, Inc., Christensen Plantation Co., Cocoa Investors, Inc.; Discovery Realty Corp.; Dream Pastures, Inc.; Echo Ranch, Inc.; Far East Ranch, Inc.; First United Transport, Inc.; Habagat Realty Development Inc.; Kalawakan Resorts, Inc., Kaunlaran Agricultural Corp.; Labayug Air Terminals, Inc., etc. — instituted in the same Sandiganbayan a civil action to annul the sequestration effected on their shares of stock in San Miguel Corporation. This was docketed as Case No. 0110.

The PCGG moved to consolidate Case No. 0110 with Case No. 0033. The motion was denied by Resolution of the Third Division dated September 27, 1991. The resolution was upheld by this Court in a resolution promulgated on June 15, 1992 in G.R. Nos. 102370-71.

On April 8, 1992, the Third Division of the Sandiganbayan promulgated a resolution lifting, on motion of the petitioners in Case No. 0110, the sequestration over the shares of stock standing in their names in San Miguel Corporation. Invalidation of this Resolution is prayed for by the PCGG in G.R. No. 104850.

4. G.R. No 106765

Still in connection with Case No. 0033, another group of corporations included in the list appended to the complaint — Kalawakan Resorts, Inc., Habagat Realty Development, Inc., Labayug Air Terminals, Inc., Punong Bayan Housing Development Corporation Pura Electric Company, Inc., Ocean Side Maritime Ent., Inc., Spade One Resorts Corporation, Unexplored Land Developers, Inc., and Wings Resorts Corporation — filed a petition for

prohibition in the Sandiganbayan to stop the PCGG and the UCPB from terminating and encashing some certificates of time deposit (CTDs) in their names and transferring the proceeds thereof to the National Treasury. This was docketed as Case No. 0059.

On November 27, 1990, the Sandiganbayan (Second Division) rendered a decision holding that the sequestration of the time deposits in question was deemed automatically lifted pursuant to Section 26, Article XVIII of the Constitution. This resolution is challenged in G.R. No. 106765.

5. G.R. Nos 105711-12

Yet another company listed as a "Cojuangco" corporation in Annex "A" of the Complaint in Case No. 0033, the Traders' Holdings & Marketing, Inc., filed two (2) actions in the Sandiganbayan, which were docketed as Cases Numbered 0061 and 0071.

Case No. 0061 was an action of prohibition and mandamus with prayer for preliminary injunction and/or temporary restraining order against PCGG and Dutch Boy (Phils.) Inc., seeking recovery of cash dividends allegedly due on its (Traders') 124,842 shares in the latter firm and which had been deposited by the PCGG with the PNB under an escrow account until a decision was reached by the proper court. It was prayed that Dutch Boy be ordered to remit to Traders all stock and cash dividends, and PCGG prohibited from receiving them and from depositing the same with any bank.

Case No. 0071 was an action of quo warranto initiated by Traders (through Gabriel L. Villareal and Yolanda M. Uy), questioning the election of PCGG nominees as directors in Dutch Boy on the ground that PCGG had no authority to vote the Traders shares sequestered by it.

Upon motion of PCGG the two cases (No. 0061 and No. 0071) were consolidated.

On July 17, 1989, the Sandiganbayan issued an Order inter alia embodying a stipulation on the following facts, among others: that the case involves 30% of the total outstanding shares of stock in Dutch Boy Philippines, Inc.; that Traders is not under sequestration nor is it a defendant in Civil Case No. 0033 concerning Cojuangco's misuse of the Coconut Levy Fund; that it is the PCGG's position that the inclusion of Traders in Annex A is adequate compliance with the Constitution.

(a) Sandiganbayan Resolution, February 3, 1992, Admitting Am-endment of PCGG Complaint

On August 23, 1991, the PCGG (Republic) filed a "Motion for Leave to Amend and for Admission of Third Amended Complaint" in Case No. 0033. The amendment consisted in the impleading of numerous corporations (about 81, according to the Sandiganbayan), including the COCOFED as an entity and representative of the so-called "more than one million member-coconut farmers" as parties defendants. Specifically, the third amended complaint set out the names and addresses of the corporations included in the case as additional defendants, alleged that said defendant corporations were used "as fronts" by the individual defendants; that the latter had gained ownership and control of the UCPB by misusing the names and/or identities of the so-called 'more than one million coconut farmers;' and that two of the new defendant firms had claimed adverse title to one of the "falcon jet" aircraft supposedly belonging to Eduardo Cojuangco, Jr.; and incorporated an additional prayer for the return and reconveyance of the properties "listed in Annex 'A' together with the accruing income or increment from date of acquisition until final judgment."

Over the defendants' opposition, the Sandiganbayan (First Division) granted the motion and admitted the third amended complaint by Resolution dated February 3, 1992. [32] It ruled that the PCGG had no intent to delay the case by moving to amend the complaint; indeed, "it was loath to sue ever so many, and was merely compelled to do so, with unequivocal reservations, as a result of the decision of the Supreme Court in Interco [33] ** "It also

ruled that the amendment worked no substantial alteration in the causes of action "which still remain the same, namely: breach of public trust, abuse of right and power, unjust enrichment, accounting and liability for damages." It held, finally, that the amendment was sanctioned by the rules on joinder of parties and of causes of action.

No challenge to this resolution has been mounted in this Court.

(b) Sandiganbayan Directive, March 30, 1992 for Delivery of Dutch Boy Shares to Traders

On March 30, 1992, the Sandiganbayan promulgated a decision holding that the writ of sequestration issued over the shares of Traders in Dutch Boy was automatically lifted for failure to file the necessary judicial action pursuant to Section 26, Article XVIII of the Constitution (citing PCGG v. INTERCO, et al., G.R. No. 92755, Oct. 2, 1990). It thus directed the delivery of the Dutch Boy Shares to Traders' plus all the stock and cash dividends earned since sequestration of the shares on Oct. 7, 1986, and that PCGG desist from exercising any of the rights pertaining to said stock.

A motion for reconsideration was filed, arguing points later embodied in a petition for certiorari filed with this Court and docketed as G.R. Nos. 105711-12 (Traders' Holdings and Marketing, Inc. v. PCGG and Dutch Boy Philippines, Inc.) supra. In the main, the petition argued that the decision of the Sandiganbayan misinterpreted, and thus erroneously invoked and applied, the rulings of this Court in PCGG vs. International Copra Export Corporation (INTERCO), G.R. No. 92755, decided October 2, 1990, and Republic vs. Sandiganbayan, 200 SCRA 531; that in the INTERCO case, even after its remand by this Court to the Sandiganbayan for reception of evidence to justify further sequestration of the unimpleaded (respondent) corporation, no proof was adduced that Eduardo Cojuangco, Jr. actually owned any of the shares of stock of said corporations and that in fact the respondent corporations had established that INTERCO had been organized as a family corporation of the Luy family; that, contrarily, there was evidence of such dummy ownership in Traders' Holdings, such as:

(a) the fact that 42,232 Dutch Boy shares in the name of Traders' were wholly (100%) owned by Reddee Developers, Inc. [adverting to the letter of David Bonney, senior vice-president of Dutch Boy; and the letter of Mervyn Encanto to the PCGG [34]];

(b) the fact that Reddee stockholders — practicing attorneys, — had executed affidavits disclaiming ownership of the shares listed in their names; [35] that the address of Reddee was the 16th Floor of the UCPB Building and, after the EDSA Revolution c/o Gabriel Villareal Law Offices, the latter, together with former Solicitor General Estelito Mendoza, being counsel for Reddee. Traders' and Cojuangco, Jr.; and that there had been NO DENIAL on the part of Traders' that these ostensible stockholders were dummies of Cojuangco, Jr.,

all of which showed that Traders' was a "shell" corporation of Eduardo Cojuangco, Jr. "to facilitate and conceal his acquisition of ill-gotten wealth."

B. Case No. 0007 - G.R. No. 105170

In Case No. 0007 entitled "Republic v. Fe Roa Gimenez, et al.," the Sandiganbayan, by resolution dated September 17, 1991 granted the motion of GEI (Guaranteed Education, Inc.) to lift the writ of sequestration over it. The attempt of PCGG to have the resolution reconsidered failed; its motion therefor was denied by Resolution of the Sandiganbayan dated April 14, 1992.

The Republic instituted a special civil action in May, 1992, docketed as G.R. No. 105170, seeking nullification of the above mentioned Resolutions.

C. Case No. 0009 — G.R. No. 104883 and G.R. No. 105850

Two of the allegedly "dummy" corporations mentioned in the list attached to the complaint in Case No. 0009 (Republic v. Jose L. Africa, et al.), namely: Philippine Communications Satellite Corporation and Philippine Overseas Telecommunications Corporation, filed a complaint for injunction in the Sandiganbayan against the PCGG, which was docketed as Case No. 0043. Another, Polygon Investors & Managers, Inc., filed a similar complaint, docketed as Case No. 0014. The three thereafter separately filed motions for the lifting of sequestrations earlier imposed on them, Polygon on August 3, 1991, and the other two, on August 8, 1991.

On December 4, 1991, the Sandiganbayan (Third Division) promulgated a Resolution declaring the order of sequestration over Philippine Communications Satellite Corporation and Philippine Overseas Telecommunications Corporation to have been automatically set aside for failure of the Government to file the necessary judicial action within the period prescribed in Section 26, Article XVIII of the 1987 Constitution. The PCGG's motion for reconsideration was denied by Resolution dated June 18, 1992.

By another Resolution, dated April 1, 1992, the Sandiganbayan (Third Division) also pronounced the order of sequestration as regards Polygon to have been automatically lifted on the strength of the same Section 26, Article XVIII of the Constitution.

Nullification of these Resolutions is sought by the PCGG in G.R. No. 104883 and G.R. No. 105850.

D. Case No. 0014

In Case No. 0014, an action involving the sequestered firms, Silahis International Hotel, Inc., Philippine Village Hotel, Inc., and Ternate Development Corporation, said companies, as independent juridical entities, separately challenged the sequestration orders handed down against them. They filed with the Sandiganbayan petitions for prohibition with application for preliminary injunction, docketed as Civil Cases Numbered 0136, 0137 and 0138, respectively. They alleged the common argument *inter alia* that no judicial action had been filed against them within the 6-month period provided in Section 26, Article XVIII of the Constitution.

Their moves all met with success. On November 18, 1991, October 11, 1991 and November 15, 1991, the Sandiganbayan (Second Division) issued Resolutions granting the writs of preliminary injunction individually sought by the three petitioner firms in the foregoing cases, on the ground that the continuance of the acts complained of would work injustice to them, these acts appearing to be in direct contravention of the cited provision of the Constitution.

1. G.R. Nos. 104065, 104168, 105205

These resolutions are now respectively challenged in this Court through special civil actions of certiorari instituted by the PCGG, docketed as G.R. Nos. 104065, 104168, and 105205.

2. G.R. No. 107908

In view of the Interco [36] Resolution, the PCGG filed in Case No. 0014, a "Motion for Leave to Amend and for Admission of Amended Complaint Dated October 8, 1991," seeking the Sandiganbayan's permission to implead new defendants and introduce additional allegations to "afford it complete relief under its Complaint." This was opposed by defendants Rebecca Panlilio and Erlinda Enriquez. They argued that the amendment would result in delay; the motion was an attempt to circumvent Section 26, Article XVIII of the Constitution; inclusion of the corporations as defendants was irrelevant and "out-of-context" since the proposed amended complaint contains no allegation of illegal acts or conduct directly attributable to them.

a. Sandiganbayan Resolution, April 3, 1992, Admitting Amendment of PCGG Complaint

The opposition notwithstanding, the Sandiganbayan (Second Division) granted PCGG's motion and admitted its amended complaint; this, by Resolution dated April 3, 1992. [37] It agreed that the "additional defendant corporations must be impleaded if complete relief is to be obtained in the action since they are alleged to have been part of the devices, schemes, and strategies used by individual defendants in committing the acts forming part of the main cause of action at bar. Indeed the original complaint had already virtually imputed acts or causes of action against them when they were described in Annex 'A' thereof and listed therein as having been sequestered on the theory that they were in truth owned by the individual defendants." The Panlilio Spouses' motion for reconsideration was denied.

This Resolution of April 2, 1992 is now challenged in this court in a certiorari action filed by the Panlilios docketed as G.R. No. 107908. The petition in this Court focuses on the issue - whether the complaint in the ill-gotten cases filed by the PCGG may be amended for the third time after the lapse of more than five years from the commencement of the action, to implead additional corporate defendants, and consequently to maintain their continued sequestration, in light of the 1987 Constitution.

E. Case No. 0016 - G.R. No. 105206

In relation to Case No. 0016 against Rodolfo M. Cuenca the Spouses Marcos, Oscar P. Beltran, Saul Y. Alfoni, Roberto S. Cuenca, Nora O. Vinluan, Panfilo Domingo, Jose L. Africa, Roberto V. Ongpin, Ricardo P. de Leon, Arturo Lazo, Arthur C. Balch, Manuel I. Tinio, Mario K. Alfelor, Rodolfo M. Munsayac, Don M. Ferry, Antonio L. Carpio -- involving sequestration orders issued by the PCGG on Universal Holdings Corporation, and on all shareholdings, rights, interests of Cuenca Investment Corporation in Philippine National Construction Corporation (PNCC, formerly CDCP) -- the Sandiganbayan (First Division) issued on October 10, 1991 a Resolution lifting the sequestration order as regards Universal Holdings Corporation on the ground that it had not been impleaded in an appropriate judicial proceeding as required by Section 26, Article XVIII of the Constitution.

The Resolution is now assailed in G.R. No. 105206 (Republic v. Sandiganbayan [First Division], Rodolfo Cuenca, Cuenca Investment Corp., Universal Holdings Corp.)

F. Case No. 0021 G.R. No. 104679

Marcelo Fiberglass Corporation, listed in the complaint in Case No. 0021 as one of the companies controlled by defendant Edward Marcelo, filed a petition for mandamus in the Sandiganbayan to compel the PCGG to lift the sequestration imposed on it. The action was docketed as Case No. 0133. On December 13, 1991, the Sandiganbayan (Third Division) issued a Resolution lifting, as of August 16, 1987, the sequestration as regards the assets, properties, records and documents of the Marcelo Fiberglass Corporation on the ground that no judicial action had been filed against the defendants within the period mandated by the Constitution, the companies in question not having been impleaded as parties but only listed in an annex of the complaint.

This Resolution is sought to be invalidated in G.R. No. 104679.

G. Case No. 0023 - G.R. No. 106176

Again, in connection with Case No. 0023 against Luz Reyes Bakunawa, Manuel Bakunawa, Jr., Manuel Bakunawa III, and the Marcoses — involving the sequestration of the so-called Bakunawa Group of Companies on the stated ground that the controlling stockholders of these companies, the spouses Luz Reyes Bakunawa and Manuel Bakunawa, Jr., were dummies/cronies of the Marcoses the Sandiganbayan (First Division) issued on October 18, 1991 a Resolution lifting the sequestration on the ground that the PCGG failed to implead the group of firms, namely: Hi-Tri Dev. Corp., 7-R Heavy Equipment Corp., 7-R Sales Company, Inc., 7-R Ranch Inc., and 7R Development Corporation, in any judicial proceeding in compliance with Section 26, Article XVIII, 1987

Constitution.

The Resolution of October 18, 1991 is now challenged in G.R. No. 106176 (Republic vs. Sandiganbayan (First Division), HI-TRI Dev. Corp., 7-R Heavy Equipment Co., Inc., 7-R Sales Co., Inc., 7-R Ranch, Inc. and 7-R Development Corp.).

H. Case No. 0024

1. G.R. No. 107233

Luis D. Yulo a defendant in this case (No. 0024) filed a motion on October 1, 1991 to lift the sequestration over the YKR Corporation, one of those listed in Annex "A" of the complaint as a "dummy" or "shell" company of the defendants. The Sandiganbayan (Second Division) found merit in the motion and, by Resolution dated November 29, 1991, declared the sequestration of said YKR Corporation to have been automatically lifted pursuant to the 1987 Constitution. The resolution is now subject of a certiorari action in this Court, G.R. No. 107233.

2. G.R. No. 109314

Another defendant, Peter Sabido, filed in said Civil Case No. 0024 a "Motion (to Lift Writs of Sequestration)" dated August 12, 1991, arguing that the orders issued against Philippine Integrated Meat Corporation (PIMECO) and Lianga Bay Logging Company, Inc. on March 17, 1986 and June 2, 1986, respectively, were ipso facto lifted when PCGG failed to file the corresponding judicial actions against the two firms as required by the Constitution within the time set therefor. Over the opposition of the PCGG, the Sandiganbayan (Second Division) granted the motion, in its Resolution of November 29, 1991. This resolution is now assailed and sought to be invalidated in G.R. No. 109314.

I. Case No. 0025 - G.R. No. 104167

Supposedly "dummy" companies listed in the annex attached to the complaint in Case No. 0025, namely: Marsteel Consolidated Inc., Marsteel Corporation, Dayton Metals Corporation, Tourist Trade & Travels Corporation, and Bacolod Real Estate Development Corporation, filed a motion to lift the sequestration effected over them by the PCGG. By Resolution of the Third Division issued on October 28, 1991, the motion was granted and the sequestration declared as automatically lifted pursuant to Section 26, Article XVIII of the Constitution.

The Resolution of October 28, 1991 is now challenged in G.R. No. 104167.

J. Case No. 0034

On November 19, 1991, the Sandiganbayan (Second Division) promulgated a Resolution in Case No. 0034 lifting the sequestration order effected over the "Benedicto Companies" for failure of the PCGG to file the necessary judicial action within the six-month period after the ratification of the 1987 Constitution — apart from the additional reason that said order was null and void because of the absence of signatures of two of the PCGG Commissioners — and directing the return to Benedicto of the corporations listed in Annex "A" of the complaint together with the other assets and properties sequestered, without prejudice to the continuation of the proceeding for final determination as to whether they constitute "ill-gotten wealth" or not, and/or the final disposition of the proceeding in connection with the approval of the Compromise Agreement executed between the PCGG and Benedicto. [38]

K. Case No. 0035

This action in the Sandiganbayan, Case No. 0035, in which the plaintiff PCGG seeks to recover, among others, 6,119,067 common shares of stock of PCIBANK registered in the name of Trans Middle East (Phil.) Equities, Inc.

(TMEE), and 6,237,330 shares of stock of Benguet Corporation in the name of Palm Avenue Realty (PAR) -- on the theory that the real owner of the stock is Benjamin ("Kokoy") Romualdez [39] -- has given rise to three special civil actions in this Court: G.R. Nos. 105808, 105809 and 109592.

1. G.R. No. 105808 Re PCIB Shares

TMEE filed a "Motion for Intervention" seeking admission of its pleading in intervention. It sought to enjoin PCGG from voting the sequestered shares and to allow it (TMEE) to exercise its rights as holder thereof. It also filed an urgent motion for issuance of a preliminary injunction or temporary restraining order to stop the PCGG from voting the shares at the annual stockholder's meeting on April 28, 1988.

a. PCGG Claim : TMEE a Dummy

The PCGG opposed the petition. (i) It adverted among other things to a letter dated April 10, 1986, written by Edilberto S. Ramos, Treasurer of movant TMEE (Trans Middle East [Phils.] Equities, Inc.), in which he acknowledged that the "beneficial owner of said shares was former Governor Benjamin Romualdez." (ii) It also drew attention to an "Agreement for Sale and Purchase of Shares of Stock" dated March 3, 1986, entered into between Mantrasco, Inc., as buyer, and First Manila Management Corporation (FMMC) Group of Companies, as seller, by virtue of which a "Partial Compromise Settlement Agreement" was subsequently executed between the PCGG (representing the Republic) and Mantrasco, Inc., whereby the latter transferred possession and control of Trans Middle shares of stock in the PCIB to the PCGG. For its part, TMEE denied knowledge of any such agreements, and of ownership by Romualdez of the stock in question. [40]

On April 26, 1988, the Sandiganbayan issued a resolution allowing intervention by TMEE, but denying its motion for injunction or temporary restraining order.

TMEE filed another motion to enjoin PCGG from voting the shares at the annual meeting scheduled on May 9, 1991 and to prevent the election of one member of Board whom TMEE's shares could theoretically vote into office.

On May 8, 1991, the Sandiganbayan issued a Resolution enjoining PCGG and PCIBank and their agents from voting some 10,853,431 shares standing in the books in the name of TMEE, at the stockholders' meeting.

On August 8, 1991, TMEE filed a motion praying that PCIBANK be ordered to call a special election for the vacant seat in the Board to enable TMEE to exercise its rights as shareholder and elect such necessary number of Board Members as its holdings shall allow. The motion was also opposed by the PCGG.

The Sandiganbayan on October 2, 1991 issued a Resolution ruling that (1) PCGG has no right to vote the 10,853,431 shares in the name of TMEE at the stockholder's meeting; and that (2) TMEE may vote said shares in person or by proxy in any such election. The motion for reconsideration of PCGG was denied by Resolution dated May 19, 1992.

The PCGG instituted G.R. No. 105808 in this Court praying for annulment of said Resolutions dated October 2, 1991 and May 19, 1992. In connection therewith (and G.R. No. 105809, consolidated with it, infra), this Court issued a temporary restraining order on July 9, 1992 directing the Sandiganbayan (Second Division) "to CEASE and DESIST from enforcing ** (the) questioned Resolutions dated October 3, May 25 and May 26, 1992 in Civil Case No. 0035 entitled 'Republic of the Philippines vs. Benjamin "Kokoy" Romualdez, et al.'"

2. G.R. No. 105809 Re Benguet Corporation Shares

In the same case, No. 0035, intervenors PALM AVENUE HOLDINGS (PAH) and PALM AVENUE REALTY (PAR) filed a motion to enjoin PCGG from voting their shares in the annual meeting of Benguet Corporation

slated on May 28, 1991. [41] PCGG however voted the shares over the objection of PAH and PAR. Subsequently, an agreement was supposedly entered into between the latter's lawyers and the former to the effect that PCGG would vote the shares and elect three nominees, but in the event that the decision in the Cojuangco case should become final, they would have their nominees vacate their seats immediately in favor of the nominees of PAH and PAR.

PAH and PAR filed a motion reiterating their prayer to enjoin the PCGG from voting the shares.

a. PCGG Claim: PAR, a Dummy

PCGG opposed the motion. It argued:

(1) that the Sandiganbayan had no jurisdiction over the issue of 13,237,339 (not merely 6,737,339) Benguet shares still under sequestration, that issue being still in dispute and unresolved in G.R. No. 90667 (Republic v. Sandiganbayan, et al.);

(2) that this Court's decision rendered on August 31, 1987 in Palm Avenue Realty Corp. et al. v. PCGG, et al., [42] had found as a fact that Palm Avenue Realty Corporation, et al. had transferred ownership of these 13,237,339 shares of Benguet stock for valuable consideration (i.e., full payment of their indebtedness to their creditor banks) and hence no longer possessed any interest therein; and

(3) that the stock in question in truth belonged to Benjamin ("Kokoy") Romualdez, as evidenced by a letter dated April 4, 1986 of Jose S. Sandejas, attorney-in-fact of Palm Avenue Realty Corporation in which he admitted that "the beneficial owner of said shares is former Gov. Benjamin Romualdez," and another letter dated April 16, 1986 of Jovencio B. Cinco, director of Benguet Corporation to the same effect, that the beneficial owner of subject Benguet shares was indeed Romualdez. [43]

A Resolution dated May 25, 1992 by the Sandiganbayan ordered: (1) that the three (3) nominees of the PCGG vacate their offices as Board Members of Benguet Corporation; (2) that Benguet Corporation allow PAH and PAR to vote their shares sufficient to elect three (3) directors; and (3) that PCGG be enjoined from voting said shares.

To nullify this Resolution of May 19, 1992, G.R. No. 105809 was commenced in this Court by the PCGG. As above stated, the case was consolidated with G.R. No. 105808, and a temporary restraining order was issued on July 9, 1992.

3. G.R. No. 109592

In connection with the annual meeting of the PCIB scheduled on May 25, 1993, TMEE filed with this Court a petition for mandamus to order the Board of the PCIBank to allow TMEE to vote its sequestered shares in said meeting. PCIB's refusal to allow TMEE to do so was premised on the temporary restraining order issued by this Court in G. R. Nos. 105808-09 on July 9, 1992, supra, enjoining the Sandiganbayan from implementing its resolutions (perpetually prohibiting the PCGG from voting the sequestered shares in Civil Case No. 0035).

The Court granted a temporary restraining order on April 20, 1993, enjoining PCIBANK from holding its annual stockholder's meeting.

a. TRO Applicable also
to Benguet Corporation

Thereafter, acting on a motion dated May 13, 1993 [44] seeking inter alia clarification of the restraining order of July 9, 1992 — as applicable only to PCIB and not to Benguet Corporation so as to disqualify PCGG from voting

its sequestered shares at Benguet's annual meeting scheduled on May 25, 1993 — this Court promulgated a Resolution on May 25, 1993 in G.R. Nos. 105808, 105809 and 109592 declaring that although the import of the restraining order of July 9, 1992 was clear enough — as covering both PCIB and Benguet Corporation — nevertheless, to lay all doubts to rest and "so that a final adjudication on the merits of ** (said) three cases may not be rendered possibly academic and/or nugatory, ** ** a similar order TEMPORARILY RESTRAINING the holding of elections for directors in the annual stockholders' meeting of Benguet Corporation, scheduled today, May 25, 1993 or at any time thereafter, until further orders" — should be, as it was thereby, issued. The Resolution allowed the meeting, "however, (to) continue as to any other matters in the agenda."

4. G.R. No. 92376 Re Shares in Philippine Journalists, Inc.

One other incident in Case No. 0035 must be recounted and it is that concerning the Philippine Journalists, Inc. (PJI). Among the assets seized by the PCGG as constituting "ill-gotten wealth" of defendant Romualdez were his shares of stock in PJI. The PCGG thereafter voted these shares at meetings of the corporation. In addition, the PCGG also voted a block of common shares registered in the names of eight (8) persons, namely: Manuel Salak, Araceli Linsangan, Alejandro Maramag, Caridad Orpiada, Lino Sison and Milagros Hizon; this, on the theory that the shares in truth belonged to Romualdez and sequestration of the latter's shares Included sequestration of the former's stock.

On January 30, 1990, a motion was filed in Case No. 0035 by the proxy [45] of said eight (8) stockholders to enjoin PCGG from voting their "unsequestered shares" at or during the annual stockholders' meeting of the Philippine Journalists, Inc. (PJI) scheduled on February 6, 1990, pending termination of the proceeding or until further orders of the Sandiganbayan. A temporary restraining order was handed down on February 5, 1990 by the Sandiganbayan, without prejudice to PCGG's subsequently filing an opposition to the motion for injunction and the holding of a hearing on the application for preliminary injunction.

On February 26, 1990, after due hearing, the Sandiganbayan ruled that continuance of the act complained of would work injustice and cause great or irreparable injury to the movants, and upon a bond in sum of P20,000.00 filed, ordered the PCGG and its officers, etc., to desist and refrain from voting the common shares of the eight (8) movants. This, because — even assuming the shares had been actually sequestered — no judicial action or proceeding had been instituted against the above-named stockholders, the PCGG having failed to institute the corresponding judicial action against the shareholders within six (6) months from date of sequestration as required by Section 26, Article XVIII of the Constitution.

The PCGG commenced a special civil action of certiorari in this Court, docketed as G.R. No. 92376 (Republic of the Philippines (PCGG) v. Sandiganbayan and Rosario M. B. Olivares), which resulted in a decision promulgated on August 12, 1991, [46] holding that no grave abuse of discretion tainted the resolution of the Sandiganbayan; that the claim of the PCGG that the listing of the sequestered PJI shares as item No. 49 in an annex appended to the complaint was sufficient compliance with the constitutional mandate, was untenable for a corporation has a distinct and separate personality from its stockholders; that also untenable was the claim that Romualdez is the real and beneficial owner of all the shares of stock in question, and the registered owners, mere dummies, such a proposition being simply assumed, and still remained to be proved in Case No. 0035 before the Sandiganbayan; that hence, the inclusion of Romualdez as defendant did not excuse the failure to file the corresponding action against the eight (8) movants; and that moreover, there was no showing that the voting of the stock in question by the PCGG was necessary to prevent dissipation of property of the corporation or of the shares themselves.

VIII. Indications that Some Corporations Are In Fact Mere "Dummies"

To be sure, the records of these cases abound with indications, mostly in the form of admissions, that several of

the corporations listed in the complaint against Eduardo J. Cojuangco, Jr. are "dummies" or manipulated instruments, or repositories of wealth deceitfully amassed at the expense of the People, or simply the fruits thereof.

A. Dummy Owners of San Miguel Corporation (SMC) Stock

For instance, three (3) corporations, namely: (1) Meadow-Lark Plantations, Inc., (2) Primavera Farms, Inc., and (3) Silver-Leaf Plantations, Inc., appear in the books of San Miguel Corporation (SMC) as owners of 8,138,440 shares of the latter's stock. And a certain Jose C. Concepcion also appears in its books as owner of "San Miguel Corporation Stock Certificate No. A962930 for 5,000 shares."

All the outstanding capital stock (100%) of these three (3) companies is owned by five (5) persons, all lawyers, namely: (1) the aforementioned Jose C. Concepcion, (2) Victoria C. de los Reyes, (3) Florentino M. Herrera III, (4) Teresita J. Herbosa, and (5) Jose Riodil Montebon. Concepcion, Herbosa and Montebon are members of one law firm; Herrera and de los Reyes are members of another.

All these (5) are shown to be signatories of three (3) identically worded voting trust agreements executed on April 13, 1984 giving to Eduardo M. Cojuangco, Jr. the right to vote for a period of five (5) years, the shares of stock of the three (3) corporations above mentioned — of the entire capital stock of which they are, as aforesaid, the ostensible owners.

Moreover, there are on record more or less identically worded affidavits of Jose C. Concepcion, Teresita J. Herbosa and Jose R. D. Montebon frankly confessing that the shares of stock listed under their names in the corporate books of the three (3) corporations above mentioned — and several other firms shortly to be named — were merely assigned to them as "nominee stockholders," but in truth they do "not have any proprietary interest in any of ** (said) shares of stock."

Concepcion's affidavit contains the additional declaration of his being "nominee stockholder" of "San Miguel Corporation Stock Certificate No. A962930 for 5,000 shares and all stock dividends declared thereon," supra, although in truth he does "not have any proprietary interest" therein.

It thus appears that by their own unequivocal admissions, not one of the aforementioned five attorneys is the owner of the stock under their names in the three (3) corporations above mentioned, which in turn own not inconsiderable stock in San Miguel Corporation.

Jose C. Concepcion appears furthermore to have executed in blank three (3) documents entitled "DECLARATION OF TRUST AND ASSIGNMENT OF SUBSCRIPTION," all dated April 13, 1984, in each of which he (a) declares that all shares of stock registered in his name in the three corporations above named (Meadow-Lark Plantations, Inc., Primavera Farms, Inc., and Silver-Leaf Plantations, Inc.) were assigned to him "only as nominee and only for the benefit and in trust for" an assignee whom he does not name, and (b) binds himself "to assign, transfer and convey all his rights, title and interest in the aforesaid shares of stock in favor of the (unnamed) ASSIGNEE or his nominees or assigns at anytime upon the request of the ASSIGNEE."

B. Dummy Ownership of Dutch Boy Shares of Stock

The same pattern of masked ownership is prima facie divulged by the record in respect of a substantial cluster of shares of stock of Dutch Boy Philippines, Inc. The latter's books show ownership of 42,232 Dutch Boy shares in the name of Traders Holdings & Marketing Corporation (Traders), said block of shares constituting 37% of the total outstanding capital stock of Dutch Boy Philippines, Inc. The entire capital stock of Traders (100%) appears in turn to be owned by Reddee Developers, Inc. (RDI)

RDI is another corporation sequestered by the PCGG on the theory that it is one of many dummy or controlled corporations of Eduardo M. Cojuangco, Jr. Among its stockholders are four (4) of the lawyers already mentioned, Florentino M. Herrera III, Victoria C. de los Reyes, Jose Riodil D. Montebon and Rogelio A. Vinluan. On record are affidavits of these four (4) individuals -- and one (1) other, Atty. Armando Q. Ongsioco (apparently connected with the same law firm as Concepcion, Herbosa and Montebon) -- stating that although RDI stock is registered in their names in the corporate books, they do "not have any proprietary interest in any of ** (said) shares of stock."

C. Other Confessions Regarding So-Called "Cojuangco Companies"

Similar confessions of cloaked ownership are bared by the record as regards several other companies sequestered by the PCGG.

Jose C. Concepcion's affidavit, for instance, acknowledges his being a mere nominee without "proprietary interest" not only as regards shares of stock in San Miguel Corporation, Meadow-Lark Plantations, Inc., Primavera Farms, Inc. and Silver-Leaf Plantations, Inc., supra, but also as regards stock in twenty (20) other alleged "Cojuangco companies," namely:

- Anchor Insurance Brokerage Corporation
- Balete Ranch, Inc
- Belmont Reds Phils Corporation
- Core Foundation, Inc.
- Dream Pastures, Inc
- Echo Ranch, Inc.
- Eduardo M. Cojuangco, Jr. & Sons Agricultural Enterprises, Inc.
- Fiscal Managers, Inc.
- Granexport Manufacturing Corporation
- Hacienda Fe, Inc.
- LHL Cattle Corporation
- Matrix Manufacturing Corporation
- Indo Phil. (OLA) Oil Mills, Inc.
- Rancho Grande, Inc.
- Southern Islands Oil Mills Corporation
- Southern Star Cattle Corporation
- United Coconut Chemicals, Inc.
- United Sari-Sari Livelihood Corp
- United Coconut Planters Bank
- United Coconut Oil Mills, Inc.

So, too, Atty. F.M. Herrera admits under oath his being "nominee stockholder" but without "proprietary interest"

not only in the corporations already mentioned — Meadow-Lark Plantations, Inc., Primavera Farms, Inc., Silver-Leaf Plantations, Inc. and Reddee Developers, Inc. — but also in fourteen (14) other so-called "Cojuangco companies," to wit:

- Archipelago Realty Corporation
- Autonomous Development Corporation
- Balete Ranch, Inc.
- Dream Pasture, Inc.
- Echo Ranch, Inc.
- Far East Ranch, Inc.
- Growth Trading
- Hacienda Fe, Inc.
- Land Air International Marketing Corporation
- LHL Cattle Corporation
- Philippine Construction Materials, Inc.
- Rancho Grande, Inc.
- San Esteban Development Corporation
- Southern Star Cattle Corporation

In her affidavit already above referred to, Victoria C. de los Reyes confesses to being a mere "nominee stockholder" without "proprietary interest in any of the shares of stock registered under ** (her) name" in the ** (following) corporations (said to be "Cojuangco firms"):

- Agricultural Consultancy Services Inc.
- Anchor Insurance Brokerage Corp.
- Archipelago Realty Corporation
- Autonomous Development Corp.
- Balete Ranch, Inc.
- Belmont Red Philippines, Inc.
- Central Communications System, Inc.
- Cocoa Investors, Inc.
- Core Foundation, Inc.
- Dream Pastures, Inc.
- Echo Ranch, Inc.
- Far East Ranch, Inc.

- First United Travel, Inc.
- Growth Trading, Inc.
- Hacienda Fe, Inc.
- Land Air International Mktg. Corp.
- LHL Cattle Corporation
- [Meadow-Lark Plantations, Inc. (supra)]
- Mirador Hills Realty, Inc.
- Philippine Construction Materials, Inc.
- Rancho Grande, Inc.
- [Reddee Developers, Inc. (supra)]
- San Esteban Development Corp.
- United Janitorial and Manpower Services Corp.
- Ventures Securities, Inc."

In his affidavit, Jose R. D. Montebon makes the same admissions with respect not only to Meadow-Lark Plantations, Inc. and Reddee Developers, Inc. (above already mentioned), but also to eight (8) others alleged to be "Cojuangco companies," to wit:

- Archipelago Realty Corporation
- Autonomous Development Corp.
- Cocoa Investors, Inc.
- Growth Trading
- Hacienda Fe, Inc.
- Mirador Hills Realty, Inc.
- Phil. Construction Materials, Inc.
- San Esteban Development Corporation.

Another lawyer, the above named Armando Q. Ongsioco, makes the same statement in his affidavit, that he is "nominee stockholder" merely without "any proprietary interest in any of the shares of stock registered under ** (his) name," not only in Reddee Developers, Inc. (already mentioned), but also in six (6) other firms claimed to be "Cojuangco corporations," to wit:

- United Agusan Agro Developers, Inc.
- Archipelago Realty Corporation
- Interpublik Associates, Inc.
- Mermaid Marketing Corp.

- Mirador Hills Realty, Inc.
- Phil. Construction Materials, Inc.

Atty. T. D. Regala, makes the same statement. "In the course of rendering professional services to clients," he says in his affidavit found in the record, he "acted as nominee stockholder" but without "proprietary interest in any of the shares of stock registered under ** (his) name in the ** (following) corporations:

- Balete Ranch, Inc.
- Cocoa Investors, Inc.
- Dream Pastures, Inc.
- Echo Ranch, Inc.
- Far East Ranch, Inc.
- LHL Cattle Corporation
- Rancho Grande, Inc."

In a similar affidavit, Atty. Manuel R. Roxas acknowledges his holding of stock only as "nominee stockholder" without "proprietary interest" in any stock in

- Verdant Plantations, Inc. and
- Vesta Agricultural Corporation.

In his affidavit in the record, lawyer Rogelio A. Vinluan, already above mentioned, declares that he is only a "nominee stockholder" and does not really own the stock registered in his name in -

- Agricultural Consultancy Services, Inc.
- Archipelago Realty Corporation
- Radyo Pilipino Corporation
- [Reddee Developers, Inc. (supra)]

In other words, according to the affidavits and documents allegedly executed by the parties concerned, there are two or more bogus stockholders in a number of the so-called "Cojuangco Companies," to wit:

1. In Agricultural Consultancy Services, inc. —

Victoria C. de los Reyes
Rogelio A. Vinluan

2. In Archipelago Realty Corporation—

Victoria C. de los Reyes
Florentino M. Herrera III
Rogelio A. Vinluan
Jose Riodil D. Montebon
Armando Q. Ongsioco

3. In Balete Ranch, Inc. —

Jose C. Concepcion
Florentino M. Herrera III
Teodoro D. Regala
Victoria C. de los Reyes

4. In Dream Pastures, Inc. —

Jose C. Concepcion
Florentino M. Herrera III
Teodoro D. Regala
Victoria C. de los Reyes

5. In Echo Ranch, Inc. —

Jose C. Concepcion
Florentino M. Herrera III
Teodoro D. Regala
Victoria C. de los Reyes

6. In LHL Cattle Corporation —

Jose C. Concepcion
Florentino M. Herrera III
Teodoro D. Regala
Victoria C. de los Reyes

7. In Rancho Grande, Inc. —

Jose C. Concepcion
Florentino M. Herrera III
Teodoro D. Regala
Victoria C. de los Reyes

8. In Mirador Hills Realty, Inc. —

Jose Riodil D. Montebon
Armando Q. Ongsioco

9. In Phil. Construction Materials, Inc.—

Jose Riodil D. Montebon
Armando Q. Ongsioco

And there would appear to be at least one (1) bogus stockholder in the rest of the so-called "Cojuangco companies" above listed.

IX. Basic Issue in All Cases

The crucial question underlying all these cases may be put in this wise:

DOES INCLUSION IN THE COMPLAINTS FILED BY THE PCGG BEFORE THE SANDIGANBAYAN OF SPECIFIC ALLEGATIONS OF CORPORATIONS BEING "DUMMIES" OR UNDER THE CONTROL OF ONE OR ANOTHER OF THE DEFENDANTS NAMED THEREIN AND USED AS INSTRUMENTS FOR ACQUISITION, OR AS BEING DEPOSITARIES OR PRODUCTS, OF ILL-GOTTEN WEALTH; OR

THE ANNEXING TO SAID COMPLAINTS OF A LIST OF SAID FIRMS, BUT WITHOUT ACTUALLY IMPLEADING THEM AS DEFENDANTS, SATISFY THE CONSTITUTIONAL REQUIREMENT THAT IN ORDER TO MAINTAIN A SEIZURE EFFECTED IN ACCORDANCE WITH EXECUTIVE ORDER NO. 1, s. 1986, THE CORRESPONDING "JUDICIAL ACTION OR PROCEEDING" SHOULD BE FILED WITHIN THE SIX-MONTH PERIOD PRESCRIBED IN SECTION 26, ARTICLE XVIII, OF THE (1987) CONSTITUTION?

The contending parties have expectedly taken opposing sides on the question. The PCGG maintains the affirmative of the issue. The various private respondents say "No," that contemplated enabling or saving effect could only be brought about by the actual, formal impleading of the sequestered entities or the ostensible holders of the sequestered assets, and asserting that sequestrations affecting persons or entities not so impleaded automatically lapsed upon expiration of either of the six-month periods, whichever was applicable, specified in the cited provision of the Constitution.

That issue submits to resolution upon equally basic and familiar principles of procedural and substantive law and of the interpretation of statutes.

X. Purpose of Constitutional Requirement for filing of "Judicial Action or Proceeding" Within Fixed Period Re Orders of Sequestration, Etc.

The purpose of the constitutional requirement that the corresponding judicial action or proceeding be filed within a definite period as regards orders of sequestration, freezing or provisional takeover, is not difficult to discern. Sequestration, freezing, provisional takeover are fundamentally remedies which are temporary, interim, provisional. In the very nature of things, as emphasized in *BASECO*, [47] they are not meant to bring about a permanent state of affairs. They are severe, radical measures taken against apparent, ostensible owners of property, or parties against whom, at the worst, there are merely *prima facie* indications of having amassed "ill-gotten wealth," indications which must still be shown to lead towards actual facts in accordance with the judicial procedures of the land.

Thus, the rationale for the limitations placed upon the power of sequestration, etc. by the Constitution, these being the following: [48]

1. The authority to issue such orders was made "operative for not more than eighteen months after ratification of ** (the) Constitution;" i.e., not beyond 18 months from February 2, 1987, unless extended by the Congress "in the national interest, as certified by the President;" [49]
2. Said orders could issue only upon showing of a *prima facie* case;
3. The order and the list of sequestered or frozen properties had to be registered forthwith with the proper court: the Sandiganbayan, according to law; [50]
4. For orders issued before ratification of the 1987 Constitution, the corresponding judicial action or proceeding should be filed within six months therefrom (i.e., six months from February 2, 1987); and for those issued thereafter, within six months from issuance of the order of sequestration, etc.

The issue in all the cases at bar chiefly concerns the fourth limitation pursuant to which the PCGG had to file "the corresponding judicial action or proceeding" within a fixed period of six months. The evident purpose was to preclude the possibility that the PCGG indefinitely maintain its orders of sequestration, etc. and to compel it, within a reasonable time, to bring them into the realm of judicial oversight, evaluation and control, to the end that excesses of the officials and agents enforcing and implementing said orders might be prevented and avoided and private rights duly protected and vindicated, while the main business of determining the character of the property

as "ill-gotten wealth" or not was being attended to.

XI. Nature of Contemplated "Judicial Action or Proceeding"

There is no particular description or specification of the kind and character of the "judicial action or proceeding" contemplated, much less an explicit requirement for the impleading of the corporations sequestered, or of the ostensible owners of property suspected to be ill-gotten. The only modifying or qualifying requirement in the constitution is that the action or proceeding be filed "for" — i.e., with regard or in relation to, in respect of, or in connection with, or concerning — orders of sequestration, freezing, or provisional takeover. [51] What is apparently contemplated is that the action or proceeding concern or involve the matter of sequestration, freezing or provisional takeover of specific property, corporeal or incorporeal, personal or real; and should have as objective, the demonstration by competent evidence that the property thus sequestered, frozen or taken over is indeed "ill-gotten wealth" over which the government has a legitimate claim for recovery and other relief. Stated otherwise, the action or proceeding contemplated is one for the final substantiation or proof of the *prima facie* showing on the basis of which a particular order of sequestration, freezing or takeover was issued.

XII. Characters of Actions Actually Brought

Now, there would seem to be no dispute about the fact that in all the cases at bench, an "action or proceeding" was actually filed with regard or in relation to, in respect of, in connection with, or concerning the sequestration, freezing or provisional takeover of corporations and other property, and that said "action or proceeding" was filed within the six-month period provided by the Constitution.

As regards the sequestered corporations, the complaints in the actions thus brought all alleged that said entities were either the instruments or conduits for personal aggrandizement or the acquisition of ill-gotten wealth, or were the depositaries, or were themselves the fruits, of ill-gotten wealth. In other words, they were organized so that they could be used for improper, illegal and anomalous availment of financial or other advantage; or were formed or being operated or manipulated by public officers *sub rosa*, or by private individuals, with the use of public funds or property or assets otherwise illegally acquired, or in breach of public trust or violation of fiduciary duty; or in the case of existing firms, that their stock had been purchased by or for public officers and their relatives, friends, and associates, with the use of public funds or illegally acquired money, or in violation of law or fiduciary duty, etc. Elsewise stated, following the classic pattern of a money-laundering operation, they were either sham, "shell" "dummy" corporations serving as fraudulent devices or conduits for private gain of public officers and employees; or companies from which stock had been acquired, or firms into which capital had been infused, or shares of stock purchased, with the use of illegally acquired assets, and which therefore constituted the *res*: the thing or object treated of in the action.

Without belaboring the obvious, some illustrations may not be amiss, and may serve to make clear the PCGG theory as the Court sees it, of sequestered companies organized to serve as tools for acquiring, or being depositaries or the fruits of, ill-gotten wealth.

A. Cases Where Corporations Used as Instruments to Illegally Amass Wealth

For instance, in the following cases, the PCGG contends that corporations were used as conduits or instruments to obtain favored contracts from government institutions or agencies, through undue influence, fraud or other illegal means, invariably with the omission of burdensome requisites and conditions imposed by law. In Civil Case No. 0007, the PCGG alleges that the defendants (Fe Gimenez Roa, et al.) used corporations organized and controlled by them to obtain favorable construction contracts from the Government. In Civil Case No. 0009, the PCGG theory is that the defendants therein (Jose Africa, et al.) used the companies controlled by them to set up a

monopoly in the telecommunications industry, and acquire substantial shareholdings in POTC-PHILCOMSAT. In Civil Case No. 0014, the PCGG contends that the defendants (Enriquez Spouses, et al.) illicitly took control of several corporations which they afterwards used as instruments to obtain unconscionable loans and financial accommodation from the GSIS and DBP, and sell land at a bloated price to the GSIS. In Civil Case No. 0016, the PCGG asserts that the defendants (Cuenca, et al.) utilized corporations controlled by them to procure favored contracts from such government agencies as the Department of Public Works and the National Irrigation Authority for many construction projects costing billions of pesos; obtain financial assistance without sufficient collateral or under anomalous terms from such government institutions as the Philippine National Bank; and transfer US dollars to a foreign account for eventual use by the Marcoses to buy property in New York. In Case No. 0024, the PCGG position is that the defendants (Peter Sabido, Luis Yulo, et al.) made use of corporations controlled by them to obtain huge loans (in domestic and foreign currencies) under anomalously one-sided conditions; and in Case No. 0025, that the defendants (Antonio Martel, et al.) utilized their controlled company to get favored contracts with the Department of National Defense and huge dollar loans from the DBP.

B. Cases of Corporation as Depositaries or Fruits of Ill-Gotten Wealth

In other instances, the PCGG theory is that companies in which alleged Marcos cronies or dummies own substantial beneficial interests, received Government property or public funds misappropriated or converted by public officers or other persons and were used for said companies' commercial advancement (Civil Cases Nos. 0014. 0023).

In still other instances, according to the PCGG, substantial or controlling blocks of stock of highly profitable business enterprises were purchased with Government funds or illegally acquired wealth in the names of the purchasers themselves or their "dummies" or "nominees" (e.g., San Miguel Corporation, Benguet Mining Corporation, MERALCO).

C. Common Prayer of Complaints

The complaints in the cases at bar all pray either that the shares of stock illegally acquired or the public funds deposited or invested in banking or other existing companies, through fraud or anomalous machinations by public officers and employees, or through the use of undue influence and pressure or other illegitimate means and methods, or the corporations controlled by the defendants and used for nefarious purposes, be conveyed to and forfeited in favor of the Government.

Now, it would seem a self-evident proposition that if the material averments of the complaints are shown to be true by competent proof, the ill-gotten wealth thereby described and identified should justly be forfeited in favor of the Government, and other appropriate remedy granted by the Court to the Republic and the Filipino people.

This is precisely the relief prayed for by the PCGG on the strength of the specific and express allegations of its several complaints. No reason of substance or significance exists to deny it the opportunity to obtain that relief.

XIII. Postulated Procedural Error in PCGG Complaints

It is postulated, however, that the judicial actions instituted by the PCGG in relation to or in connection with its orders of sequestration or seizure against corporations or shares of stock held by supposed dummies, suffered from a grave procedural defect. The sequestered corporations -- which, in the above mentioned view of the PCGG had served as tools or instruments for acquisition of ill-gotten wealth, or were the depositaries or fruits thereof -- or the natural persons ostensibly owning stock as "dummies," had not been impleaded as defendants in the various complaints.

A. Error Immaterial to Requirement to
File Actions or Proceedings within
Constitutional Time Limits

Such a procedural defect, however, conceding its existence for the nonce, does not contradict or adversely affect the actuality that judicial actions or proceedings had been brought within the time limits laid down by the Constitution "for" them; i.e., with regard or in relation to, in connection with, or involving or concerning the sequestration or seizure by the PCGG of the assets or properties in question.

Other considerations bearing upon the matter should also be taken into account.

B. Impleading Unnecessary in Cases for Recovery of Shares of Stock or Bank Deposits

As regards actions in which the complaints seek recovery of defendants' shares of stock in existing corporations (e.g., San Miguel Corporation, Benguet Corporation, Meralco, etc.) because allegedly purchased with misappropriated public funds, in breach of fiduciary duty, or otherwise under illicit or anomalous conditions, the impleading of said firms would clearly appear to be unnecessary. If warranted by the evidence, judgments may be handed down against the corresponding defendants divesting them of ownership of their stock, the acquisition thereof being illegal and consequently burdened with a constructive trust, and imposing on them the obligation of surrendering them to the Government.

Quite the same thing may be said of illegally obtained funds deposited in banks. The impleading of the banks would also appear unnecessary. Indeed, there would exist no cause of action against them. Judgment may properly be rendered on the basis of competent evidence, that said funds are ill-gotten wealth over which the defendants have no right, and should consequently be surrendered to their rightful owner, the Government. The judgment would constitute sufficient warrant for the bank to make the corresponding transfer of the funds.

C. Impleading Unnecessary Re Firms

Which are the Res of the Actions

And as to corporations organized with ill-gotten wealth, but are not themselves guilty of misappropriation, fraud or other illicit conduct — in other words, the companies themselves are the object or thing involved in the action, the res thereof — there is no need to implead them either. Indeed, their impleading is not proper on the strength alone of their having been formed with ill-gotten funds, absent any other particular wrongdoing on their part. The judgment may simply be directed against the shares of stock shown to have been issued in consideration of ill-gotten wealth.

Such showing of having been formed with, or having received ill-gotten funds, however strong or convincing, does not, without more, warrant identifying the corporations in question with the persons who formed or made use of them to give the color or appearance of lawful, innocent acquisition to illegally amassed wealth — at the least, not so as place on the Government the onus of impleading the former together with the latter in actions to recover such wealth. Distinguished, in terms of juridical personality and legal culpability from their erring members or stockholders, said corporations are not themselves guilty of the sins of the latter, of the embezzlement, asportation, etc., that gave rise to the Government's cause of action for recovery; their creation or organization was merely the result of their members' (or stockholders') manipulations and maneuvers to conceal the illegal origins of the assets or monies invested therein. In this light, they are simply the res in the actions for the recovery of illegally acquired wealth, and there is, in principle, no cause of action against them and no ground to implead them as defendants in said actions.

The Government is, thus, not to be faulted for not making such corporations defendants in the actions referred to.

It is even conceivable that had this been attempted motions to dismiss would have lain to frustrate such attempts.

D. In any Case, Omission to Implead firms not Fatal, but Curable Error

Even in those cases where it might reasonably be argued that the failure of the Government to implead the sequestered corporations as defendants is indeed a procedural aberration, as where said firms were allegedly used, and actively cooperated with the defendants, as instruments or conduits for conversion of public funds or property or illicit or fraudulent obtention of favored Government contracts, etc., slight reflection would nevertheless lead to the conclusion that the defect is not fatal, but one correctible under applicable adjective rules — e.g., Section 10, Rule 5 of the Rules of Court [specifying the remedy of amendment during trial to authorize or to conform to the evidence [52]]; Section 1, Rule 20 [governing amendments before trial], in relation to the rule respecting the omission of so-called necessary or indispensable parties, set out in Section 11, Rule 3 of the Rules of Court. [53] It is relevant in this context to advert to the old, familiar doctrines that the omission to implead such parties "is a mere technical defect which can be cured at any stage of the proceedings even after judgment;" [54] and that, particularly in the case of indispensable parties, [55] since their presence and participation is essential to the very life of the action, for without them no judgment may be rendered, amendments of the complaint in order to implead them should be freely allowed, even on appeal, in fact even after rendition of judgment by this Court, where it appears that the complaint otherwise indicates their identity and character as such indispensable parties. [56]

Again, even conceding the adjective imperfection of the omission to implead the sequestered corporations as indispensable or necessary parties, it bears repeating that their sequestration would not thereby be rendered functus officio, since, as already pointed out, judicial actions or proceedings have in truth been filed concerning or regarding said sequestration in literal and faithful compliance with Section 26, Article XVIII of the Constitution.

XIV. Effect of Sequestration on Corporations Concerned

Moreover, the fact of sequestration clearly placed the corporations subjected thereto on notice that in the Government's view, they were instruments for acquisition of "ill-gotten wealth," or their formation, organization and operation were tainted by impropriety and wrongdoing (e.g., by infusion of stolen funds or property); and that therefore, they should expect some form of Government action for redress and relief. In any event, in common with everybody else, they were charged with notice of the State policy, enunciated by the Revolutionary Government, reiterated in the Freedom Constitution, and explicitly set forth in the 1987 Constitution, that preferential attention should be given to the mission of recovering ill-gotten wealth. It might even be theorized, not unreasonably, that these circumstances placed on them the onus of intervening in the corresponding action, to quash the writs of sequestration by proof that they are not "ill-gotten wealth," that they are legitimate corporations, engaged in licit business.

XV. Continuing Vitality of State Policy For Recovery of Ill-Gotten Wealth

Political normalization of the country — which fortunately came not too long after the EDSA Revolution of 1986 — did not abrogate, or diminish the strength of the lofty state policy for recovery of ill-gotten wealth, no matter that its prosecution has thus far yielded what not a few are disposed to regard as at best only mixed results, or was attended by much abuse on the part of some of its officers or "fiscal agents;" indeed, that circumstance should vigorously argue for its more sustained and effective pursuit and implementation.

And equally, if not more, important, strong paramount public policy is not to be set at naught by technical rules of

procedure or by narrow constructions of constitutional provisions that frustrate their clear intent or unreasonably restrict their scope. This, of course, even on the premise that impleading sequestered firms is necessary to the maintenance of their sequestration — a premise that is of doubtful validity, as already pointed out, given the language of the constitutional provision.

Furthermore, if actions are not to be dismissed for lack of an indispensable party, where the latter may be subsequently joined by amendment of the pleadings, no reason appears why provisional remedies in those actions, such as sequestrations, should be affected by the initial non-inclusion of an indispensable party, the obvious remedy being to allow amendment of the complaint to effect the impleading.

XVI. The "Interco" and "PJI" Rulings

This Court is not unmindful of the fact that its Resolution of July 26, 1991 on the petitioner's motion for reconsideration in G.R. No. 92755 (PCGG vs. Interco) [57] appears to sustain the proposition that actual impleading in the recovery action of a corporation, under sequestration for being a repository of illegally-acquired wealth, is necessary and requisite for such proposed or pending seizure to come under the protective umbrella of the Constitution. But Interco is to be differentiated from the cases now under review in that in the former, as already elsewhere herein made clear, there was a lack of proof, even of the *prima facie* kind, that Eduardo Cojuangco, Jr. owned any stock in Interco, the evidence on record being in fact that said corporation had been organized as a family corporation of the Luys.

So, too, this Court's judgment in the so-called "PJI Case" (Republic of the Philippines (PCGG) v. Sandiganbayan and Rosario Olivares) [58] may not be regarded as on all fours with the cases under consideration. The PJI Case involved the shares of stock in the name of eight (8) natural persons which had never been sequestered at all. What happened was that the PCGG simply arrogated unto itself the right to vote those unsequestered shares on the bare claim that the eight (8) registered owners thereof were "dummies" of Benjamin Romualdez, the real owner of the shares; and all that the PCGG had done as predicate for that act of appropriation of the stock, was to include all the shares of PJI in a list (Annex A) appended to its complaint in Sandiganbayan Case No. 0035, describing them as among the properties illegally acquired by Romualdez. Unfortunately, as in Interco, the PCGG failed to substantiate by competent evidence its theory of clandestine ownership of Romualdez; and since moreover, there had been no sequestration of the alleged dummies' shares of stock, it was undoubtedly correct for the Sandiganbayan to grant the latter's motion for them to be recognized and declared as the true owners of the stock in question, which judgment this Court subsequently pronounced to be free from grave abuse of discretion.

It is obvious that the now-questioned rulings of the Sandiganbayan merely hewed to what that tribunal perceived to be the doctrine laid down in Interco and PJI. That was error, as already explained in some detail but, all things considered, one not easily avoided.

XVII. Final Dispositions

It is thus both needful and timely to pronounce that:

- 1) Section 26, Article XVIII of the Constitution does not, by its terms or any fair interpretation thereof, require that corporations or business enterprises alleged to be repositories of "ill-gotten wealth," as the term is used in said provision, be actually and formally impleaded in the actions for the recovery thereof, in order to maintain in effect existing sequestrations thereof;
- 2) Complaints for the recovery of ill-gotten wealth which merely identify and/or allege said corporations or enterprises to be the instruments, repositories or the fruits of ill-gotten wealth, without more, come within the meaning of the phrase "corresponding judicial action or proceeding" contemplated by the constitutional provision

referred to; the more so, that normally, said corporations, as distinguished from their stockholders or members, are not generally suable for the latter's illegal or criminal actuations in the acquisition of the assets invested by them in the former;

3) even assuming the impleading of said corporations to be necessary and proper so that judgment may comprehensively and effectively be rendered in the actions, amendment of the complaints to implead them as defendants may, under existing rules of procedure, be done at any time during the pendency of the actions thereby initiated, and even during the pendency of an appeal to the Supreme Court -- a procedure that, in any case, is not inconsistent with or proscribed by the constitutional time limits to the filing of the corresponding complaints "for" -- i.e., with regard or in relation to, in respect of, or in connection with, or concerning -- orders of sequestration, freezing, or provisional takeover."

WHEREFORE, judgment is hereby rendered:

A. NULLIFYING AND SETTING ASIDE:

- 1) In G.R. No. 96073, the challenged Resolution of the Sandiganbayan promulgated on November 19, 1990;
- 2) In G.R. No. 104065, the Sandiganbayan's Resolutions issued on November 18, 1991 and January 31, 1992;
- 3) In G.R. No. 104167, the challenged Resolutions of the Sandiganbayan issued on October 28, 1991 and February 19, 1991;
- 4) In G.R. No. 104168, said Court's challenged Resolutions dated October 11, 1991 and February 12, 1992;
- 5) In G.R. No. 104679, its challenged Resolutions issued on December 13, 1991 and March 18, 1992;
- 6) In G.R. No. 104850, its questioned Resolution issued on April 8, 1992;
- 7) In G.R. No. 104883, its questioned Resolution promulgated on April 1, 1992;
- 8) In G.R. No. 105170, its questioned Resolutions dated September 17, 1991 and April 24, 1992;
- 9) In G.R. No. 105205, its Resolutions issued on November 15, 1991 and January 17, 1992;
- 10) In G.R. No. 105206, its Resolutions dated October 10, 1991 and May 4, 1992;
- 11) In G.R. Nos. 105711-12, its assailed Decision dated March 30, 1992, and Resolution dated May 28, 1992;
- 12) In G.R. No. 105808, the Sandiganbayan's Resolutions dated October 3, 1991 and May 26, 1992; and in G.R. No. 105809, its Resolutions issued on May 25, 1992;
- 13) In G.R. No. 105850, the Resolutions issued on December 4, 1991 and June 18, 1992;
- 14) In G.R. No. 106176, the challenged Resolutions dated October 18, 1991 and June 19, 1992;
- 15) In G.R. No. 106765, the Sandiganbayan's impugned Decision dated November 27, 1990;
- 16) In G.R. No. 107233, its Resolutions issued on November 29, 1991; and
- 17) In G.R. No. 109314, its impugned Resolutions dated November 29, 1991 and February 16, 1993;

B. CONFIRMING AND MAINTAINING the temporary restraining orders issued in G.R. Nos. 104883, 105170, 105206, 105808, 105809, 107233, and 107908, which shall continue in force and effect during the continuation of the proceedings in the corresponding civil actions in the Sandiganbayan, subject to the latter's power to modify or terminate the same in the exercise of its sound discretion in light of such evidence as may subsequently be

adduced; and

C. DISMISSING the petitions in G.R. No. 107908 and 109592 for lack of merit.

IT IS SO ORDERED.

Bidin, Regalado, Davide, Jr., Belosillo, Melo, Quiason, Puno, Vitug, Kapunan and Mendoza, JJ., concur.

Feliciano, J., concur, except in respect of GR 107908 where he took no part.

Padilla, J., see dissenting opinion.

Romero, J., no part. His husband was PCGG Commissioner at the time the complaints were filed. Francisco, J., took no part in the deliberation.

[1] Bataan Shipyard & Engineering Co., Inc. (BASECO) v. PCGG, 150 SCRA 181, 208

[2] In its aforementioned decision in BASECO v. PCGG, id.

[3] SEC. 2 a

[4] Second Whereas Clause

[5] Effective May 7, 1986

[6] See footnote No. 1, supra

[7] 159 SCRA 556

[8] Proclamation No. 3, March 25, 1986

[9] It has since come to be known as the "Freedom Constitution"

[10] ART. II Sec. 1, d)

[11] EFFECTIVE immediately upon its ratification by a majority of the votes cast in a plebiscite held for the purpose (Sec. 27, ART. XVIII); duly ratified by a majority of the votes cast in the plebiscite held on February 2, 1987, as certified by President Aquino in Proclamation No. 58 dated Feb. 11, 1987

[12] United Coconut Planters Life; Assurance Company; CAGOIL; GRANEX; ILICOCO; LEGOIL; SOLCOM, etc.

[13] Bienvenido Marquez, Sr. died on July 4, 1994 and has been substituted by his heirs.

[14] E.g., in Security Bank, Escolta, Allied Banking Corporation International Corporate Bank, Philippine Trust Company, Commercial Bank of Manila, Bank of the Philippine Islands, China Banking Corporation, Citibank, Philippine Bank of Communications, Pacific Banking Corporation, Consolidated Bank & Trust Company, Metropolitan Bank & Trust Company, Philippine Savings Bank, Consolidated Bank & Trust Corporation, Union Bank, Bankers Trust Co. (A/C # 34--714-415, 1980-1986), Traders Royal Bank (A/C # 74-702836-9, May 2-31, 1985), Philippine National Bank, Bankers Trust, AG (A/C # 107094-50)

[15] SEE common allegations and prayer of PCGG complaints: Sub-Head IV, A, supra

[16] SEE Sub-Head VII, A. 2, infra

[17] SEE common allegations and prayer of PCGG complaints: IV, A, supra

[18] SEE common allegations and prayer of PCGG complaints: IV, A, supra

[19] SEE common allegations and prayer of PCGG complaints: IV, A, supra

[20] SEE common allegations and prayer of PCGG complaints: IV, A, supra

[21] SEE Sub-Head IV, A, 9, supra

[22] SEE Sub-Head III, items a and g, supra

[23] Now moot and academic

[24] G.R. No. 96087, later consolidated with G.R. No. 87710, decision rendered on March 1, 1992

[25] G.R. No. 103879

[26] SEE Sub-Head VII, J, infra

[27] Sequestered, aside from the shares of stock in PCIBANK and Benguet Corporation, on the theory that they belonged to Benjamin Romualdez, were his shares of stock in fifty-nine (59) other corporations including Philippine Communications Satellite Corp., Philippine Overseas Telecommunications Corp., Polygon Investors & Managers, Inc., Palm Avenue Realty Development Corporation, Palm Avenue Holdings Inc., Erectors, Inc.; Meralco Foundation, Inc.; First Philippine Holdings Corporation; MERALCO, Pilipinas Shell Petroleum Corporation.

[28] SEE footnote 11, supra

[29] Emphasis supplied

[30] GRANEX, ILICO, Legazpi Oil of Davao City, Legazpi Oil of Cagayan de Oro City, Anchor Insurance Brokerage, Inc., Southern Luzon Coconut Oil Mills, San Pablo Oil Manufacturing Co., Inc., United Coconut Oil Mills (UNICOM), INDOPHIL, Medina, Misamis Oriental, CAGOIL, COCOFED Marketing Corp. (COCOMARK), United Coconut Planters Life Assurance Corp. (COCOLIFE), United Coconut Chemicals, Inc. (UNICHEM), United Coconut Planters, International (UCPI), Iligan Bay Express Corp. (IBEC), United Cocoa Plantation, United Coconut Planters, Inc. (UCPI), Mt. Bulusan Agricultural Commodities, Inc.; Sharp Peak Agricultural Commodities, Inc., Mt. Tuayan Agricultural Commodities, Inc., Lamon Bay Agricultural Commodities, Inc., Mactan Agricultural Commodities, Inc., Malipayon Agricultural Commodities, Inc. N.B. CIIF also invested in the following copra trading companies, to wit: Davao Coconut Planters Trading, Inc., Zamboanga Coconut Planters Trading, Inc., Leyte Coconut Planters Trading, Inc., Northern Mindanao Planters Trading, Inc., Visayas Coconut Planters Trading, Inc., Bicol Coconut Planters, Inc., Tagalog Coconut Planters, Inc. (SEE Rollo, G.R. No. 7513 [COCOFED v. PCGG], p. 203; Annex A, complaint in CC No. 0033).

[31] SEE also, decision in G.R. No. 92376, August 12, 1991, cited in footnote 46 and related text, infra:

[32] The Second Division also favorably acted on a similar motion of the PCGG for leave to amend complaint: SEE footnote 53, infra

[33] SEE Sub-Head s VII, A, 2, and IV, B, 9

[34] Exhs. A-10, A-14, Sandiganbayan Cases No. 0061 and 0071: SEE Sub-Head VIII, B, infra

[35] SEE Sub-Head VIII, B, infra

[36] International Copra Export Corporation and Interco Mfg. Corporation, G.R. No. 92755, Resolution dated October 2, 1990 supra; SEE Sub-Head VII, A, 2, supra

[37] SEE footnote 32, *supra*

[38] The case has become moot and academic: SEE Sub-Head IV, B, 10, *supra*

[39] SEE Sub-Head IV, B, 11, *supra*.

[40] SEE Resolutions, per Escareal, J., May 8, 1991 and October 3, 1991, in Case No. 0035, (Sub-Head IV, B, 11, *supra*)

[41] SEE *Palm Avenue Realty Development Corporation v. PCGG*, 153 SCRA 579 (1987).

[42] 153 SCRA 579

[43] SEE Resolution of Escareal, J., May 25, 1992, in Case No. 0035 (Sub-Head IV, B, 11, *supra*)

[44] *Rollo*, G.R. No. 105809, pp. 163-172

[45] Rosario Olivares, a stockholder whose own shares in PJI had apparently been sequestered

[46] 200 SCRA 530; SEE footnote 31, *supra*

[47] 150 SCRA 181, 211-213

[48] First paragraph, Sec. 26, ART. XVIII. SEE Bernas, S.J., "The Constitution of the Republic of the Philippines, A Commentary," 1st (1988) ed., Vol. II, pp. 625-629, for a summary of the debates in the Constitutional Commission relative to the safeguards Intended to minimize abuse of the powers of sequestration, freezing and provisional takeover.

[49] A contingency that, as everyone now knows, has not taken place

[50] Executive Order No. 14; see footnote 5 and related text, *supra*

[51] Among the many meanings given to the preposition by Webster's Third New International Dictionary, are "as regards, in respect to, concerning;" and by the Oxford English Dictionary, 1961 ed., Vol. IV (F-G), "as regards, with regard or respect to, concerning."

[52] Of course, the impleading of a sequestered corporation under either rule would add a due process dimension to the situation, making it necessary for the impleaded corporation to be summoned and given an opportunity to answer and defend itself in the action.

[53] Indeed, in at least three instances, in Cases Nos. 0014, 0024 and 0033, *supra*, these rules were invoked and applied by the Sandiganbayan (Third Division) as basis for admission of amendments of its complaints by the PCGG to implead sequestered corporations as party defendants; and there are at this time motions pending before the Sandiganbayan, grounded on the same rules, for leave to amend the complaints in other cases (e.g., Nos. 0016 and 0021).

[54] *Quizon v. Salud*, 12 Phil., 109 *Diaz v. de la Rama*, 73 Phil. 104; *Cuyugan v. Dizon*, 79 Phil. 80; *Balago v. Lara*, C.A. 50 O. G. 4908, all cited in *Feria*, Civil Procedure, 1969 ed., p. 154; *Sanchez v. CFI*, 40 Phil. 155, cited in *Regalado*, Remedial Law Compendium, 5th Revised Ed., Vol. 1. p. 58

[55] Defined in Sec. 7, Rule 3, as "(p)arties in interest without whom no final determination can be had of an action," who should thus be joined in the action "under any and all conditions" (*Borlasa v. Polistico*, 47 Phil. 345, 348, cited in *Feria*, op. cit., p. 152, and *Regalado*, op. cit., p. 56, which also cites *Cortez v. Avila*, 101 Phil. 705).

[56] The principle was made clear by this Court as early as in the 1920's, in *Chua Kiong v. Whitaker*, 46 Phil. 578, 581-583; see also, *Cuyugan v. Dizon*, 79 Phil. 80 and *Adiarde v. Tumaneng*, 88 Phil. 333, cited in *Feria*, Civil Procedure, 1969 ed., pp. 245-249; see also *Ambrosio v. Salvador*, 87 SCRA 217, 223

[57] SEE Sub-Head VII, A, 2, *supra*

[58] G.R. No. 92376, Aug. 12, 1991, 200 SCRA 530; SEE footnotes 31 and 46, *supra*

DISSENTING OPINION

PADILLA, J.:

With great reluctance, I dissent even if it is a lonely voice in the field of due process and fair play.

The core issue to be resolved in these consolidated cases is:

Does inclusion in the complaints filed by the PCGG before the Sandiganbayan of specific allegations of certain corporations being "dummies" or under the control of one or more of the defendants named therein and having been allegedly used as instruments for acquisition, or as being depositories or products, of ill-gotten wealth; or the annexing to said complaints of a list of said firms as fruits of ill-gotten wealth or corporations in which defendants own illegally acquired stock, but without actually impleading them as defendants, satisfy the constitutional requirement that in order to maintain a sequestration effected in accordance with Executive Order No. 1 s. 1986, the corresponding "judicial action or proceeding" should be filed within the six-month period prescribed in Section 26, Article XVIII of the 1987 Constitution?

The Court's decision points out (see p. 54) that:

"Sequestration, freezing, provisional take-over are fundamentally remedies which are temporary, interim, provisional. In the very nature of things, as emphasized in BASECO, they are not meant to bring about a permanent state of affairs. They are severe, radical measures taken against apparent, ostensible owners of property, or parties against whom, at the worst, there are merely *prima facie* indications of having amassed 'ill-gotten wealth', indications which must still be shown to lead towards actual facts in accordance with the judicial procedures of the land".

Hence, the limitations placed upon the power of sequestration, etc. by the Constitution, among them being the following:

1. The authority to issue such orders of sequestration was made 'operative for not more than eighteen months after ratification of x x [the] Constitution;' i.e. not beyond 18 months from 02 February 1987, unless extended by the Congress 'in the national interest', as certified by the President;
2. Said orders of sequestration could issue only upon showing of a *prima facie* case;
3. An order of sequestration and the list of sequestered or frozen properties had to be registered forthwith with the proper court: the Sandiganbayan, according to law;
4. For orders of sequestration issued before ratification of the 1987 Constitution, the corresponding judicial action or proceeding should be filed within six (6) months therefrom (i.e., six (6) months from 02 February 1987); and for orders issued thereafter, within six (6) months from issuance of the order of sequestration, etc.

The issue in all the cases at bar chiefly concerns the fourth limitation, above-mentioned, pursuant to which the PCGG would have to file 'the corresponding judicial action or proceeding' within a fixed period of six (6) months. The evident purpose was to preclude the possibility that the PCGG would indefinitely maintain its orders

of sequestration, etc. and to compel it, within a reasonable time, to bring them into the realm of judicial oversight, evaluation and control, to the end that excesses of the officials and agents enforcing and implementing said orders might be prevented and avoided and private rights duly protected and vindicated, while the main business of determining the character of the properties as 'ill-gotten wealth' or not was being attended to in court.

While the Court's decision recognizes that the constitutional provisions limiting the PCGG's powers of sequestration were designed to protect private property rights, the decision goes on to posit the theory that the "judicial action or proceeding" contemplated by the Constitution is any action concerning or involving the property under sequestration, i.e. a proceeding to prove that the property is ill-gotten, without the necessity of impleading in said actions, the sequestered companies themselves.

It is suggested that in cases of recovery of shares of stock or bank deposits, the corporation or bank involved need not be impleaded since there would in fact exist no cause of action against them as the holders (stockholders or depositors) merely hold the shares or deposits in constructive trust in favor of the government.

In cases of corporations allegedly organized using ill-gotten wealth, it is also suggested that they (the corporations) need not be impleaded since the corporations themselves are merely the object or res of the action.

As an alternative, it is argued that the corporations may still be impleaded by amending the complaints under appropriate provisions of the Rules of Court. Also, it is stated that the corporations involved were clearly put on notice, by virtue of the sequestration, that they could be instruments for acquisition of ill-gotten wealth and that said corporations had the onus of intervening in the cases.

It should be remembered, in this connection, that orders of sequestration are extraordinary writs by which the government, through the PCGG, secured properties and assets alleged to have been illegally acquired during the period prior to the 1986 EDSA Revolution which ousted then President Marcos. Sequestration (Philippine-style) involved the seizure by the government of specified properties and assets of private persons and likewise included the take-over of the management and/or control of sequestered corporations, without the need of prior notice to the owner of the properties or corporation to be sequestered. The PCGG was empowered to issue writs of sequestration by virtue of Executive Orders Nos. 1 and 2 and Proclamation No. 3 issued in 1986 by then President Aquino.

Sequestration therefore is akin to the provisional remedies of preliminary attachment and receivership. However, it should be pointed out that unlike said two (2) provisional remedies, writs of sequestration are issued not by a judicial body but by the PCGG itself, upon its own determination that there exists a prima facie factual foundation for the writs. Unlike in ordinary civil cases where specific grounds are provided for by the Rules of Court for the issuance of the writs, no definite or specific grounds are required for the issuance of writs of sequestration. If applied to civil cases, it would be allowing the plaintiff to take control of a defendant's assets even prior to the filing of a complaint based on the former's own belief or assertion that he has a better right to such assets. Also, unlike the two (2) provisional remedies, aforementioned, no bond is required to indemnify a defendant for any undue damage which might be suffered by him as a consequence of the issuance of the writ.

It thus cannot be denied that the authority of the PCGG then to issue writs of sequestration was an invasion upon a private person's right against deprivation of property without due process of law.

The framers of the Constitution were evidently concerned with such irregular procedures inherent in sequestration so that they included Sec. 26, Article XVIII in the Constitution, thus:

"The authority to issue sequestration or freeze orders under Proclamation No. 3 dated March 25, 1986 in relation to the recovery of ill-gotten wealth shall remain operative for not more than eighteen months after the

ratification of this Constitution. However, in the national interest, as certified by the President, the Congress may extend said period.

A sequestration or freeze order shall be issued only upon showing of a prima facie case. The order and list of the sequestered or frozen properties shall forthwith be registered with the proper court. For orders issued before the ratification of this Constitution, the corresponding judicial action or proceeding shall be filed within six months from its ratification. For those issued after such ratification, the judicial action or proceeding shall be commenced within six months from the issuance thereof.

The sequestration or freeze order is deemed automatically lifted if no judicial action or proceeding is commenced as herein provided." (Underscoring supplied)

This constitutional safeguard cannot and should not be given such a strict and narrow construction as to render it ineffective.

In the case of corporations allegedly organized using ill-gotten wealth, the Court's decision agrees that such corporations have personalities distinct and separate from the alleged beneficial owners who are named defendants in the complaints. I submit that failure to implead these corporations as defendants and merely annexing a list of such corporations to the complaints is a violation of their right to due process for it would in effect be disregarding their distinct and separate personality without a hearing.

In cases where stocks of a corporation were allegedly the fruits of ill-gotten wealth, it should be remembered that in most of these cases the stocks involved constitute a substantial if not controlling interest in the corporations. The basic tenets of fair play demand that these corporations be impleaded as defendants since a judgment in favor of the government will undoubtedly substantially and decisively affect the corporations as distinct entities. The judgment could strip them of everything without being previously heard as they are not parties to the action in which the judgment is rendered.

The issue in these consolidated cases cannot be disposed of by simply holding, as the Court does, that corporations merely hold stocks in a constructive trust for the government or are but the res of the complaints. Holding that the "corresponding judicial action or proceeding" contemplated by the Constitution is any action concerning or involving the corporation under sequestration is oversimplifying the solution, the result of which is antagonistic to the principles of justice and fair play.

I submit that the actions contemplated by the Constitution should be those which include the corporation not as a mere annex to the complaint but as defendant. This is the minimum requirement of the due process guarantee. Short of being impleaded, the corporation has no standing in the judicial action. It cannot adequately defend itself. It may not even be heard.

On the Court's opinion that alternatively the corporations can be impleaded as defendants by amendment of the complaint, Section 26, Article XVIII of the Constitution would appear to preclude this procedure, for allowing amendment of the complaint to implead theretofore unimpleaded corporations would in effect allow complaints against the corporations to be filed beyond the periods fixed by said Section 26.

Justice Amuerfina Melencio-Herrera in her separate opinion in *Bataan Shipyard and Engineering Corporation, Inc. v. PCGG* (150 SCRA 181, 253) correctly stated what should be the rule, thus:

"Sequestration is an extraordinary, harsh and severe remedy. It should be confined to its lawful parameters and exercised, with due regard, in the words of its enabling laws, to the requirements of fairness, due process, and Justice." (Underscoring supplied)

While government efforts to recover illegally amassed wealth should have support from all its branches, eagerness

and zeal should not be allowed to run berserk, overriding in the process the very principles that it is sworn to uphold. In our legal system, the ends do not always justify the means. Wrongs are never corrected by committing other wrongs, and as above-discussed the recovery of ill-gotten wealth does not and should never justify unreasonable intrusions into constitutionally forbidden grounds. It is for these reasons that, in my view, the writs of sequestration involved in these cases should now be lifted in accordance with the last paragraph of Section 26, Article XVIII of the Constitution.

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