

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, PETITIONER, VS. LUCIO C. TAN, MARIANO TANENGLIAN, ALLIED BANKING CORPORATION, IRIS HOLDINGS & DEVELOPMENT CORPORATION, VIRGO HOLDINGS...

G.R. Nos. 173553-56. December 07, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Joint Decision dated February 14, 2006 and Resolution dated July 13, 2006 rendered by the Sandiganbayan in Civil Cases Nos. 0096, 0097, 0098 and 0099, all entitled “Lucio C. Tan, et al. v. PCGG.”

Records show that on various dates in 1986 and on January 7, 1987, the Presidential Commission on Good Government (PCGG), petitioner, issued orders sequestering shares of stock of the above-named respondents in the following corporations: Maranao Hotels & Resort Corporation, Allied Banking Corporation, Foremost Farms, Inc., Fortune Tobacco Corporation and Shareholdings, Inc. Typical of the order of sequestration is the “Sequestration Order and Fiscal Committee No. 86-0139” dated June 19, 1986 issued on shares of stock in Allied Banking Corporation reproduced hereunder:

Mr. Lucio C. Tan
Chairman
Allied Banking Corporation
Allied Bank Center
Ayala Avenue, Makati
Metro Manila

Subject: Sequestration Order & Fiscal Committee

Dear Sir:

By virtue of the powers vested in the Presidential Commission on Good Government and by authority of the President of the Republic of the Philippines, we hereby sequester the shares of stock in the Allied Banking Corporation held by and/or in the name of the following persons and/or entities:

Name No. of Shares

Lucio C. Tan 66,134 Common Shares

Iris Holdings & Dev. Corp. 46,937 Common Shares

25,000 Preferred Shares

Mariano Tanenglian 17,635 Common Shares

Virgo Holdings & Dev. Corp. 52,617 Common Shares

25,000 Preferred Shares

Ignacio B. Gimenez 44,089 Common Shares

Jewel Holdings, Inc. 77,005 Common Shares

We direct you not to cause any transfer, conveyance, encumbrance, concealment or liquidation of the aforementioned shares of stocks without any written authority from the Commission.

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Very truly yours,

FOR THE COMMISSION

(SGD) JOVITO R. SALONGA

(SGD) RAMON A. DIAZ

Chairman Commissioner

Soon after the issuance of the sequestration orders, respondents filed with petitioner petitions to lift the orders of sequestration. However, petitioner did not act on their motions. Consequently, in August and September, 1986, respondents filed with this Court petitions for certiorari, prohibition and injunction to nullify petitioner's orders of sequestration. On February 15, 1990, this Court referred the petitions to the Sandiganbayan, docketed therein as follows:

- Civil Case No. 0095, Sipalay Trading Corp. v. PCGG, with regard to respondents' shares of stock in Maranao Hotels and Resort Corporation (Century Park Sheraton Hotel);
- Civil Case No. 0096, Lucio C. Tan, et al. v. PCGG, concerning respondents' shares of stock and aircraft of Allied Banking Corporation;
- Civil Case No. 0097, Lucio C. Tan, et al. v. PCGG, involving respondents' shares of stock in Foremost Farms, Inc.;
- Civil Case No. 0098, Lucio C. Tan, et al. v. PCGG, with respect to respondents' shares of stock in Fortune Tobacco Corporation;
- Civil Case No. 0099, Lucio C. Tan, et al. v. PCGG, relative to respondents' shares of stock in Shareholdings, Inc.; and
- Civil Case No. 0100, Allied Banking Corp. v. PCGG, regarding the search and seizure order of the documents of Allied Banking Corporation.

In their petitions with the Sandiganbayan, respondents alleged that petitioner violated their right against deprivation of "life, liberty or property without due process of law."

On August 19, 1993, respondents filed with the Sandiganbayan a supplemental petition invoking Section 26, Article XVIII of the 1987 Constitution providing that "a sequestration or freeze order shall be issued only upon showing of a prima facie case."

On August 23, 1993, the Sandiganbayan rendered its Decision in Civil Case No. 0095 nullifying petitioner's

orders of sequestration of Sipalay's shares of stock in Maranao Hotels & Resort Corporation; and in Civil Case No. 0100 nullifying petitioner's search and seizure order on Allied Banking Corporation's documents. On appeal by petitioner, this Court, in its Decision in *Republic v. Sandiganbayan*,^[1] affirmed the Sandiganbayan's judgment.

On March 2, 2006, the Sandiganbayan promulgated its "Joint Decision" in the remaining four cases - Civil Cases Nos. 0096-0099 - declaring that the writs of sequestration issued by petitioner against respondents' shares of stock are void and of no legal effect, thus:

WHEREFORE, in view of all the foregoing, the Court hereby GRANTS the petitions. Accordingly, the Writs of Sequestration issued against petitioners' shares of stock in Allied Banking Corporation, Foremost Farms, Fortune Tobacco Corporation and Shareholdings, Inc. are hereby declared null and void and of no legal effect.

SO ORDERED.

In resolving Civil Cases Nos. 0096-0099, the Sandiganbayan held that the writs of sequestration were issued by petitioner without *prima facie* factual foundation that the properties covered are ill-gotten wealth, thus:

The issue about whether or not a *prima facie* factual foundation existed to warrant the sequestration of Allied Bank, Foremost Farms, Fortune Tobacco Corporation and Shareholdings, Inc. can best be settled through documents which should reflect that indeed, there were discussions made by the PCGG on the supposed "ill-gotten" nature of the properties involved and that there were enough factual bases for it to issue such sequestration orders.

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Significantly, the documents presented and offered by the PCGG are not all originals and that as stipulated upon by the counsels for both parties, only the following exhibits are photocopies of what appeared to be original documents, namely, Exhibits "10," "11," "17," "26," "28," "29," "31," "33," "34," "61," "68," "69," "70," "81," "84," "85," "104," "106," "108," "124," "147," "159," "160," "161," "162," "165," "166," "167," "169," "172," "175," "176," "178," "179," "180," "181" and "182." On the other hand, and as stipulated upon further, the following are photocopies of certified machine copies on file with the Records Section of the PCGG, namely, Exhibits "1," "25," "38," "40," "57," "59," "62," "63," "71," "72," "73," "74," "75," "76," "77," "78," "79," "88," "94," "95," "96," "101," "103," "107," "109," "116," "118," "119," "120," "123," "125," "126," "127," "133," "134," "140," "142" and "143."

Before an analysis of the pertinent documents is made, the major premise must likewise be laid that the instant cases involve only a review of the documents, if any, establishing that the PCGG, prior to the issuance of the subject writs of sequestration, found a *prima facie* factual foundation that the subject properties are ill-gotten wealth to warrant their sequestration. It does not delve into the larger issue of whether these properties truly constitute "ill-gotten" wealth in contemplation of Executive Orders Nos. 1, 2, and 14, since that is the subject of another case which is still pending.

The requirement of a *prima facie* factual foundation is based not only on Section 26 of Article XVIII of the 1987 Constitution,^[2] but likewise on some provisions of the Freedom Constitution which recognized the power and duty of the President to enact measures to achieve the mandate of the people to recover 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. Executive Order No. 2 further declares that with respect to claims on allegedly "ill-gotten" assets and properties, it is the position of the new democratic government that President Marcos, his immediate family, relatives and associates be afforded fair opportunity to contest these claims before appropriate Philippine authorities. Executive Order No 14, on the other hand, mandates that there be due regard to the requirements of fairness and due process.

Based on these legal sanctions, there is no question that the writs of sequestration subject of these petitions, albeit issued before the effectivity of the 1987 Constitution, nonetheless necessitated a prima facie factual foundation. This is bolstered by the rationale that inasmuch as sequestration tends to impede or limit the exercise of property rights by private citizens, it should be construed strictly against the state, pursuant to the legal maxim that statutes in derogation of common rights are in general strictly construed and rigidly confined to cases clearly within their scope and purpose. Concededly, even the exercise of the “inherent and plenary” police power of the state to impose restrictions on property rights is subject to the conditions of reasonableness, public welfare, and necessity.

As aptly expressed by Madame Justice Ameurфина Melencio-Herrera, and as often quoted in like decisions, sequestration is an extraordinary, harsh, and even 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.

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During its turn to present evidence, the PCGG indeed presented numerous documents. The minutes of the meetings wherein such deliberations were supposedly made were marked as Exhibits “183,” “184,” “185,” “186,” “187,” “188,” “189” and “190.” Considering that the contents of these mentioned documents bear a great deal of importance in the resolution of the issue as to whether deliberations were had by the PCGG before issuing the writs of sequestration against the four petitioner companies in these cases, a reproduction of the relevant portions thereof is mandated, thus:

MINUTES OF THE COMMISSION MEETING HELD ON THURSDAY, 20 MARCH 1986.
(Exhibits “E”; “188”)

- The Commissioners discussed the letter request of Mr. Romeo Co, in behalf of Mr. Lucio Tan, Board Chairman, and resolved to grant his request to be dropped from the freeze and hold order lists, subject to certain conditions to be covered by confidential letter/memorandum. The letter/memorandum was drafted by Commissioner Daza and reviewed by Commissioner Bautista.

MINUTES OF THE COMMISSION MEETING
05 June 1986 (16), page 3
(Exhibits “F”; “189”)

2.16. LUCIO TAN. Com. Bautista gave a verbal confidential report on this subject and the adverse publicity it has on the Commission. It was noted.

MINUTES OF THE COMMISSION MEETING HELD
ON TUESDAY, JUNE 24, 1986 (26)
(Exhibits “G”; “184”)

- AGENDA:

2.1. ALLIED BANK SEQUESTRATION (Commissioner Ramon A. Diaz)

Report full implementation of the Commission’s Writ of Sequestration over the shares of Lucio Tan – 66,000; of Iris - 46,937,025, Virgo – 52,617,025, and others constituting 72% of the total capital subscribed shares of stock. Commission approved creation of a focal committee to implement proposal of the law and rules of this Commission.

AGENDA, Tuesday, July 1, 1986 Page Two
(Exhibits “H”; “190”)

- REQUEST FOR A WRIT OF SEQUESTRATION OF LUCIO TAN’S SHARE HOLDINGS. – The Commission’s OIC-Fiscal Agent R.G. Brillante, through Atty. Pfeider, Legal Department, has requested

immediate sequestration of LUCIO TAN's entire shareholdings of SIPALAY TRADING CORP., comprising some 78.3% of the total voting shares of Maranaw Hotels and Resorts Corp., owners of Century Park Sheraton Hotel.

FOR CONSIDERATION/ACTION...COM. DOROMAL

MINUTES OF THE COMMISSION MEETING HELD
ON JULY 18, 1986
(Exhibits "I"; "185")

6. LUCIO TAN

Sequestration order approved for issuance on Tuesday or Wednesday, July 22/23, unless Negotiations on Monday, July 21 are Successful

Com. Diaz recommended sequestration of Mr. Lucio C. Tan's shares/assets in the Fortune Tobacco Corporation. The Commission agreed with the report of the Executive Volunteers Group that based on available evidence and interviews with Mr. Tan himself, there is prima facie evidence to support that a significant portion of the shares of this company are owned by former Pres. Marcos. The Chairman pointed out that negotiations on this matter will take place on Monday, July 21. The Commission then authorized the issuance of the sequestration order only in case the negotiations are not successful.

MINUTES OF THE COMMISSION MEETING HELD
ON AUGUST 12, 1986 AT THE PCGG
CONFERENCE ROOM
(Exhibit "183")

3.11. FOREMOST FARMS, INC. : Recommendation for

(Com. Diaz)

sequestration approved

Com. Diaz reported that based on findings, there was a prima facie case to support a sequestration order covering Foremost Farms, Inc. He then recommended, and the Commission approved, the issuance of a sequestration order and the designation of a supervisory committee to implement the same.

MINUTES OF THE COMMISSION MEETING HELD
ON TUESDAY, 3 JULY 1986
(Exhibit "186")

1.8. CENTURY PARK SHERATON (LUCIO C. TAN'S SHARES). – (Com. Doromal)

In the matter of the issuance of a Writ of Sequestration of the shares of stocks/shareholdings of Mr. Lucio C. Tan in Sipalay Trading Corporation comprising more than 78% of the entire voting and outstanding shares of Maranaw Hotels and Resorts Corporation, owner of Century Park Sheraton. After an exhaustive deliberation, the Commission decided to APPROVE the issuance of a Writ of Sequestration to cover all the shares of stocks/shareholdings of Mr. Lucio C. Tan in Century Park Sheraton.

MINUTES OF THE COMMISSION MEETING HELD
ON OCOBER 14, TUESDAY, AT THE PCGG
COMMISSION ROOM
(Exhibit "187")

- NEW BUSINESS

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5.2 LUCIO C. TAN :

Approved: Sequestration of all properties, hold/freeze orders, subpoena/subpoena duces tecum

Com. Diaz explained his recommendation for the sequestration of Virginia Tobacco Redrying Plant which appears to be owned by Lucio Tan. He also recommended the issuance of a subpoena and subpoena duces tecum covering Messrs. Lucio Tan and Romeo Co and the records required from the Allied Bank. After discussion, the Commission agreed to the immediate issuance of hold/freeze orders covering Messrs. Lucio Tan and Romeo Co, as well as the sequestration of all their properties. Dir. Parlade was requested to arrange for the preparation of the subpoena and subpoena duces tecum.

It appears from the reproduced minutes that while Exhibit “183” mentioned about a prima facie case to support a sequestration order covering Foremost Farms and the consequent approval of the sequestration order and the creation of a supervisory committee to implement the same, the Court finds that the said statement is insufficient to provide a factual basis for sequestration. It was more of a conclusion that a prima facie case existed as to Foremost Farms. What is notable too is that the only meeting regarding the sequestration of Foremost Farms was held on the same day that the writ of sequestration itself was issued. This bolsters the apprehension that there was truly no deep discussion on the basis of issuing such sequestration order.

With respect to Exhibit “184” (also marked as Exhibit “G”) covering the PCGG meeting held on June 24, 1986, it was merely a report on the implementation of the writ of sequestration over the shares of stock of Lucio Tan, Iris, Virgo, and others in Allied Bank, which was earlier issued on June 19, 1986. Since the same was already a report, the discussion on the prima facie case was supposedly conducted prior thereto. However, none appears on record.

As to Exhibit “185” (also marked as Exhibit “I”) referring to the sequestration of Fortune Tobacco Corporation, it stated that the PCGG agreed with the report of the Executive Volunteers Group that based on available evidence and interviews with Mr. Tan himself, there was prima facie evidence that a significant portion of the shares in this company was owned by President Marcos. It may be gleaned from this item in the agenda of the PCGG meeting held on July 18, 1986 that the finding of a prima facie case was based on the report of the Executive Volunteers Group with which the Commission agreed, and on the basis of which the latter subsequently issued the Writ of Sequestration on Fortune Tobacco Corporation on July 24, 1986. While this document may establish somehow a strained factual foundation by way of the report of the Executive Volunteers Group, marked and offered in evidence as Exhibit “164,” the Court finds that this exhibit is not included among those documents stipulated upon by the counsels for both parties as photocopies either of what purport to be originals or of certified machine copies on file with the PCGG. This predicament which is attributable to the nagging situation about the non-presentation of the original of the document certainly poses a problem as to the admissibility of the document and undoubtedly works to the disadvantage of the PCGG.

Exhibit “186” refers to a matter which is not covered in these petitions, as it speaks of Century Park Sheraton, or Maranaw Hotels and Resort Corporation.

Exhibit “187” speaks of the recommendation for the sequestration of the Virginia Tobacco Redrying Plant which appeared to be owned by Lucio Tan and for the issuance of subpoenae to him and Mr. Romeo Co for the production of the records of Allied Bank, but did not state in detail the factual basis for such a recommendation to sequester. In fact, the requested subpoenae were apparently intended to uncover from the records of Allied Bank facts and data to support that recommendation. Furthermore, the connection of Virginia Tobacco Redrying Plant to any of the petitioner companies was not established.

Exhibit “188” (also marked as Exhibit “E”) mentions of a request of Lucio Tan to be dropped from the freeze and hold order lists, and has therefore no relevance to any discussion on prima facie factual foundation.

Exhibit “189” (also marked as Exhibit “F”) does not tackle any discussion on the factual basis for finding a prima facie case for sequestration, as it speaks only of a confidential report on Lucio Tan and the adverse publicity it had on the Commission.

Exhibit “190” (also marked as Exhibit “H”) is likewise irrelevant since it refers to Lucio Tan’s shareholdings in Sipalay Trading Corporation, which is not the subject of any of these petitions.

The Court is aware that the PCGG offered in evidence a total of 190 documentary exhibits. A careful perusal thereof, however, reflects that except for the documents marked as Exhibits “183,” “184,” “185,” “186,” “187,” “189” and “190,” they pertain to alleged manner of acquisition of the subject corporations, the purported infusion of funds thereto, the transfer of shares, deeds of assignment (Exhibits “7” to “9,” “12” to “16,” “35” to “67,” “88” to “91,” “100” to “103,” “109” to “118,” “120” to “123,” “125” to “134,” among others); the supposed communications between President Marcos and Lucio Tan (Exhibits “17,” “33,” “68,” “84,” “93,” “105,” “106,” “108,” “124,” “147,” among others); the purported conduct of activities of subject corporations and alleged favorable action on them (Exhibits “69” to “83,” “85” to “87,” “119,” “148,” “150” to “156,” “176,” “177,” among others); and irrelevant matters (Exhibits “135” to “143,” “149,” among others). This observation provides ample reason for the Court to find that the bulk of the respondent’s documents at best constitutes or tends to show proof that the properties covered therein are truly “ill-gotten” wealth. They do not, on their face, indicate that the PCGG indeed deliberated on these matters to define prima facie factual basis prior to the issuance of the writs of sequestration.

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The requirement for a prima facie factual foundation cannot therefore be overemphasized, for as directed in the Baseco case, there must exist a prima facie factual foundation for the sequestration, freeze or takeover order, and adequate and fair opportunity to contest it and endeavor to cause its negation or nullification. The High Court went further to say in the same case that “parenthetically, even if the requirement for a prima facie showing of ‘ill-gotten’ wealth were not expressly imposed by sequestration or freezing of property contemplated in the executive orders in question, it would nevertheless be eligible in this jurisdiction in which the Rule of Law prevails and official acts which are devoid of rational basis in fact or law, or are whimsical and capricious, are condemned and struck down.

On the assertion of the respondent invoking the presumption that official duty was regularly performed on the part of the PCGG officials, such that the petitioners allegedly failed to discharge their function of proving that the writs of sequestration were issued without prima facie factual basis, the Court finds the disputable presumption inapplicable, as it is patent from the foregoing discussion that official duty was not performed as it should have been, in accordance with law.

Petitioner then filed a motion for reconsideration but it was denied by the Sandiganbayan, holding that:

The respondent’s contention that the determination of the existence of a prima facie case should not be made to depend on documents showing that discussions were had by the PCGG on the ill-gotten nature of the properties involved certainly begs the question and is a blatant acknowledgment that there are really no such documents showing discussions by the respondent, in obvious contradiction to its assertion that it has documents to establish a prima facie case against the petitioner companies.

It would not be amiss to clarify that the authority of the respondent to issue a writ of sequestration *motu proprio* is proper only if it has reasonable grounds to believe that the issuance is warranted, in contrast to the

case where the issuance of the writ is based on the affirmation or complaint of an interested party. Thus, it should be that the exercise of the motu proprio authority should still hinge on the determination of a prima facie case, or in the words of the Rules, a reasonable ground to believe that the issuance is warranted.

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Hence, the instant petition for review by petitioner raising the following grounds:

- THE COURT A QUO SUBSTITUTED ITS OWN JUDGMENT TO THAT OF PETITIONER AND UNLAWFULLY ENCROACHED ON MATTERS FALLING WITHIN THE LATTER'S ADMINISTRATIVE COMPETENCE.
- FACTS AND DOCUMENTS INDUBITABLY SHOWING THAT PETITIONER MADE A PRIMA FACIE FACTUAL DETERMINATION ON THE ILL-GOTTEN NATURE OF THE PROPERTIES INVOLVED BEFORE THE WRITS OF SEQUESTRATION WERE ISSUED, WERE IGNORED AND DISCARDED THEREBY RESULTING IN DEPRIVATION OF PETITIONER'S RIGHT TO DUE PROCESS OF LAW.
- THE LIFTING OF THE SEQUESTRATION ORDERS BY THE COURT A QUO DESPITE ITS DECLARATION THAT "THE BULK OF THE RESPONDENT'S DOCUMENTS AT BEST CONSTITUTES OR TENDS TO SHOW PROOF THAT THE PROPERTIES COVERED THEREIN ARE TRULY 'ILL-GOTTEN WEALTH'" CLEARLY CONTRAVENES THE LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT.
- THE PETITIONER IS ENTITLED TO A TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY INJUNCTION.

In their comments, respondents maintain that the present petition does not show any basis why this Court should reverse the Sandiganbayan's "Joint Decision."

On The First Ground Raised by Petitioner: The court a quo substituted its own judgment to that of petitioner and unlawfully encroached on matters falling within the latter's administrative competence –

In support of its argument, petitioner invokes this Court's Decision in *PCGG v. Peña*.^[3] The Decision is inapplicable. In that case, this Court held that Regional Trial Courts have no jurisdiction over the PCGG's actions which are "within the exclusive and original jurisdiction of the Sandiganbayan, subject to review exclusively by this Court." The "Joint Decision" assailed in this petition was rendered by the Sandiganbayan, not by a Regional Trial Court.

Under Section 26, Article XVIII of the Constitution, an order of sequestration may only issue upon a showing "of a prima facie case" that the properties are ill-gotten wealth under Executive Orders Nos. 1 and 2.^[4] When a court nullifies an order of sequestration for having been issued without a prima facie showing that the properties sequestered are "ill-gotten wealth" under Executive Orders Nos. 1 and 2, the court does not substitute its judgment for that of the PCGG but simply applies the law.

It bears stressing that among the rights explicitly acknowledged in *Bataan Shipyard & Engineering Co., Inc. v. PCGG*^[5] is that owners of properties have the "opportunity to contest" actions or orders of sequestration issued by the PCGG. Hence, the actions brought by respondents are in the exercise of their right to contest petitioner's sequestration of their shares of stock in various corporations.

On The Second GROUND: Facts and documents indubitably showing that petitioner made a prima facie factual determination on the ill-gotten nature of the properties involved before the writs of sequestration were issued were ignored and discarded

thereby resulting in deprivation of petitioner's right to due process of law

In resolving whether there is a "prima facie" case that the properties ordered to be sequestered are "ill-gotten wealth" under Executive Orders Nos. 1 and 2, we have to examine and evaluate petitioner's order of sequestration itself and its minutes of meeting.

On this point, we find it relevant to define "ill-gotten wealth." In *Bataan Shipyard and Engineering Co., Inc.*,^[6] this Court described "ill-gotten wealth" as follows:

Ill-gotten wealth is that acquired through or as a result of improper or illegal use of or the conversion of funds belonging to the Government or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of official position, authority, relationship, connection or influence, resulting in unjust enrichment of the ostensible owner and grave damage and prejudice to the State. And this, too, is the sense in which the term is commonly understood in other jurisdictions.

Concerning respondents' shares of stock here, there is no evidence presented by petitioner that they belong to the Government of the Philippines or any of its branches, instrumentalities, enterprises, banks or financial institutions. Nor is there evidence that respondents, taking undue advantage of their connections or relationship with former President Marcos or his family, relatives and close associates, were able to acquire those shares of stock.

Significantly, the only evidence held by petitioner prior to the issuance of the writs of sequestration was the minutes of its meetings (reproduced earlier). Although there were 190 exhibits,^{["[7]]} however, petitioner, prior to the issuance of the orders of sequestration, had no evidence to prove that respondents' shares of stock are prima facie "ill-gotten wealth."

Petitioner assails the Sandiganbayan's conclusion that the minutes of meeting do not reflect any deliberation showing that the shares of stock sequestered are prima facie "ill-gotten wealth." In resolving this issue, the Sandiganbayan held:

Indeed, the value of the minutes of the respondent's meetings cannot be overemphasized by this Court because it is as well the responsibility of an administrative tribunal to draw up their decisions and resolutions with due care, and make certain that they truly and accurately reflect their conclusions and their final dispositions. It is a requirement of due process and fair play that the parties be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions it derived. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the party, who is unable to pinpoint the possible errors for review by a higher tribunal. Moreover, the essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.^[8] The finding of a prima facie factual foundation prior to the issuance of a writ of sequestration undoubtedly shares the rationale advanced in the aforecited jurisprudence.

As stated earlier, this Court affirmed the Sandiganbayan's Decision in Civil Cases Nos. 0095 and 0100 declaring void petitioner's sequestration of respondents' properties.^[9] The evidence presented in these two cases is similar to those presented in the instant cases. This Court referring likewise to petitioner's minutes of meeting involved in Civil Cases Nos. 0095 and 0100 held:

Other than being informative of PCGG internal procedure on how and by whom sequestration orders in general are issued and of the "accomplishments" of one of its then commissioners, the excerpts are absolutely unreflective of any deliberation by PCGG commissioners particularly concerning the sequestration order against SIPALAY, much less the factual basis for its issuance. They do not even make the slightest allusion to SIPALAY, or ALLIED. That Atty. Hontiveros devoted two (2) months for document-searching only to come up with minutes that are as barren as the testimonial evidences of the PCGG validates indeed the claim of

respondent corporations which may well sum-up the PCGG's case specifically against SIPALAY, that:

The only logical conclusion that may be reached by Atty. Hontiveros' inability to produce PCGG records in regards respondent Sipalay is that there was no evidence before the PCGG or any of its Commissioners which would tend to establish that the shares of stock in Maranaw registered in the name of private respondent Sipalay are ill-gotten.

There being no evidence, not even a prima facie one, there was therefore no valid sequestration of the SIPALAY shares in the Maranaw Hotels and Resort Corporation.

While it has been held in Bataan Shipyard & Engineering Co, Inc.[10] that orders of sequestration may issue ex parte, it was emphasized that a prima facie factual foundation that the properties sequestered are "ill-gotten wealth" is required, and that the person whose property is sequestered has the opportunity to contest the validity of sequestration pursuant to Sections 5 and 6 of the Rules and Regulations of PCGG itself. Indeed, that "opportunity to contest" includes resort to the courts. The "opportunity to contest" will be meaningless unless there is a record, on the basis of which the reviewing authority, including the court, may determine whether the PCGG's ruling that the property sequestered is "ill-gotten wealth" was issued "with grave abuse of discretion amounting to lack or excess of jurisdiction." That record should include the reason why the shares of stock are being sequestered and the record of the proceedings, on the basis of which, issuance of the order of sequestration was authorized. Those records do not exist here.

Without any reason in the sequestration order why respondents' shares of stock were being sequestered, it would be impossible to determine whether the order of sequestration was issued with any prima facie factual foundation. But petitioner relies on the presumption of validity of official acts. Suffice it to state that such presumption undermines the basic principle embodied in the Constitution that public officers and employees "must at all times be accountable to the people." [11]

On The Third GROUND: The lifting of the sequestration orders by the court a quo despite its declaration that the bulk of the respondents' documents at best constitutes or tends to show proof that the properties covered therein are truly "ill-gotten wealth" clearly contravenes the law and applicable decisions of this Honorable Court

In resolving this ground raised in petitioner's motion for reconsideration of the "Joint Decision," the Sandiganbayan stated:

x x x The clause "the bulk of the respondent's documents at best constitutes or tends to show proof that the properties covered therein are truly "ill-gotten wealth" contained in the assailed Joint Decision should not be lifted apart from the Court's statements immediately previous and subsequent thereto, in order merely to suit the respondent's contention. It is very definite that the aforequoted clause, found in the middle of a single paragraph, was preceded by descriptions or categorization of specific documents offered by the respondent which do not at all establish prima facie factual foundation, and then followed by the categorical statement that they do not, on their face, indicate that the PCGG indeed deliberated on these matters to define a prima facie factual basis prior to the issuance of the writs of sequestration. To amplify further, the misconstrued clause merely emphasizes that those pieces of documentary evidence are irrelevant and do not disprove the petitioners' position that the issuance of the writs of sequestration was not founded on a prima facie factual foundation, which is the real issue in these petitions, and that the respondent may find more relevance therein in the case to determine ill-gotten wealth against the petitioners. x x x

Clearly, petitioner should have interpreted the subject phrase in conjunction with the Sandiganbayan's finding that the issuance of the writs of execution was not based on a prima facie "factual foundation." It must be emphasized that petitioner's evidence does not show how the properties sequestered were acquired by

respondents or that they are “ill-gotten wealth,” and whether former President Marcos intervened in their acquisition.

On The Fourth GROUND: The petitioner is entitled to a temporary restraining order and/or writ of preliminary injunction

Considering the Sandiganbayan’s finding which we sustain, that petitioner’s orders of sequestration were not based on a prima facie factual foundation that the subject properties are ill-gotten wealth, this ground is misplaced.

In sum, there can be no question that indeed, petitioner’s orders of sequestration are void and have no legal effect.

WHEREFORE, we DENY the petition. The assailed Joint Decision and Resolution of the Sandiganbayan in Civil Cases Nos. 0096, 0097, 0098 and 0099 are AFFIRMED.

SO ORDERED.

Ynares-Santiago,[*] and Corona, JJ., concur.

Puno, C.J., No part due to prior participation in case.

Azcuna, J., No part - former PCGG Chair.

[*] Designated to sit as additional Member of the First Division under Special Order No. 474 dated October 19, 2007 issued pursuant to Administrative Circular No. 84-2007.

[1] G.R. Nos. 112708-09, March 29, 1996, 255 SCRA 438.

[2] 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 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 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.

[3] No. L-77663, April 12, 1988, 159 SCRA 556.

[4] EXECUTIVE ORDER NO. 1 – CREATING THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT. WHEREAS, 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;

x x x x x

Sec. 2. The Commission shall be charged with the task of assisting the President in regard to the following matters:

(a) The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate

family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship.

x x x x x x

EXECUTIVE ORDER NO. 2. – REGARDING THE FUNDS, MONEYS, ASSETS, AND PROPERTIES ILLEGALLY ACQUIRED OR MISAPPROPRIATED BY FORMER PRESIDENT FERDINAND E. MARCOS, MRS. IMELDA ROMUALDEZ MARCOS, THEIR CLOSE RELATIVES, SUBORDINATES, BUSINESS ASSOCIATES, DUMMIES, AGENTS, OR NOMINEES. WHEREAS, THE Government of the Philippines is in possession of evidence showing that there are assets and properties purportedly pertaining to former President Ferdinand E. Marcos, and/or his wife, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates, business associates, dummies, agents or nominees which had been or were acquired by them directly or indirectly, through or as a result of the improper or illegal use of funds or properties owned by the Government of the Philippines or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of their office, authority, influence, connections or relationships, resulting in their unjust enrichment and causing grave damages and prejudice to the Filipino people and the Republic of the Philippines; x x x

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, hereby:

(1) Freeze all assets and properties in the Philippines in which former President Marcos and/or his wife, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates, business associates, dummies, agents, or nominees have any interest or participation; x x x

[5] No. L-75885, May 27, 1987, 150 SCRA 181.

[6] Id.

[7] Listed and described in the “Joint Decision,” pp. 21-38.

[8] Citing *Arboleda v. NLRC*, 303 SCRA 38 (1999) and *Miguel v. JCT Group, Inc.*, 453 SCRA 529 (2005).

[9] *Republic v. Sandiganbayan*, *supra*.

[10] *Supra*, footnotes 5 and 6.

[11] Section 1, Article XI, Constitution.

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