

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN, PALM AVENUE REALTY DEVELOPMENT CORPORATION AND PALM AVENUE HOLDING COMPANY, RESPONDENTS. REPUBLIC OF THE PHILIPPINES,...

G.R. Nos. 90667 and 91655. November 05, 1991

Ponente: PARAS, J.

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PARAS, J.:

G.R. No. 90667 is a petition for certiorari filed by the Republic of the Philippines, which seeks to partially nullify 1) the resolution* dated June 16, 1989 of the Sandiganbayan which: (a) ordered all the 16,237,339 Benguet Consolidated shares, and not merely 6,737,339 thereof, as still under sequestration and in dispute, and (b) directed the impleading of Palm Avenue Realty Development Corporation and Palm Avenue Holding Company as defendants in Civil Case No. 0035 entitled "Republic of the Philippines, plaintiff, vs. Benjamin (Kokoy) Romualdez, et al., defendants" and 2) the resolution dated September 18, 1989 of the said court denying petitioner's motion for reconsideration.

G.R. No. 91655 is a petition for certiorari with prayer for a temporary restraining order and preliminary injunction which seeks to annul and set aside 1) the resolution** dated October 13, 1989 of the Sandiganbayan granting Rosario M.B. Olivares' motion for an accounting of the sequestered Philippine Journalists, Inc.'s assets and liabilities through an auditing firm of her choice, and 2) the resolution dated December 22, 1989 of the said court denying petitioner's motion for reconsideration.

In the resolution of February 20, 1990, the Court En Banc resolved to consolidate these cases.

In G.R. No. 90667 -

The antecedent facts of this case originated from the case of Palm Avenue Realty Development Corporation vs. Presidential Commission on Good Government (Palm Avenue case, for brevity) [153 SCRA 579 (1987)]. Said facts, as set forth by this Court in the aforementioned case, appear to be undisputed. They are quoted as follows:

"The res involved consists of 16,237,339 shares of stock of Benguet Corporation (Common Class A), of which the registered owners are the petitioners, Palm Avenue Realty Development Corporation and Palm Avenue Holding Co., Inc. The shares had been pledged by the petitioners with three (3) institutions as security for loans obtained from the latter, namely: Philippine Commercial and International Bank (PCIB), Philippine Commercial Capital (PCC), and Equitable Bank.

The PCGG sequestered these shares on or about April 5, 1986. It did so, apparently on the strength of evidence that the ostensible owners, herein petitioner corporations, were owned and controlled by a known 'crony' of former President Marcos, Benjamin Kokoy Romualdez. At that time, the loans were all past due and auction sale of the pledged stock was imminent.

Now, Benguet Management Corporation (hereafter, simply BENGUET) wished to acquire these shares of

stock from the petitioners, intending to distribute them chiefly to the employees of Benguet Corporation and its subsidiaries pursuant to a plan named Employees' Stock Ownership and Incentive Plan, or ESOIP. BENGUET opened negotiations with the petitioners for the purchase of the stock. It found the petitioners to be willing sellers, but only of so much of the stock as was needed to be sold to pay the past due loans secured, as aforesaid, by the pledge of all said stock.

The negotiation culminated in the execution by the parties of a Contract to Purchase and Sell dated September 1, 1986, its principal stipulations were the following:

1. BENGUET would buy as much of the petitioners' stock as was needed to pay the latter's loans, estimated to be 9.5 million shares.
2. The price was fixed at P29.00 per share, expected to be realized at a 'cross sale' thru Papa Securities at the Manila or Makati Stock Exchange.
3. Additionally, (a) the written approval of the PCGG had to be obtained; (2) the purchasers were to procure the release of all stock from the pledgee banks; and (3) if this was not done within 60 days, BENGUET had the option either to withdraw from the contract, by notice in writing, or pay interest as provided in the agreement.

Approval by the PCGG was not immediately given. In a communication dated September 23, 1986 it opined that the price was too low, P43.00 per share being in its view the more adequate, and set down other conditions at variance with the stipulations in the contract of purchase and sale. Both parties found the PCGG's terms quite unacceptable.

Eventually, however, due mainly to the efforts and representations of BENGUET, PCGG gave its approval. By letter dated October 14, 1986, signed by Commissioner Ramon Diaz, PCGG advised BENGUET that at its meeting on that same day it had approved the Contract of Purchase and Sell dated September 1, 1986.

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On October 24, 1986, the PCGG and BENGUET drew up and signed a Memorandum of Agreement specifying the terms and conditions under which the Contract to Purchase and Sell of September 1, 1986 would be implemented. Briefly, those terms and conditions are as follows:

1. BENGUET would fund the acquisition cost of 9.5 million of the 16,237,339 sequestered shares at P29.00 per share (the bulk of which would be paid to PCIB, PCC and Equitable Bank to extinguish their credits and bring about the release of all said 16,237,339 pledged shares).
2. 3 million out of the 9.5 million shares would be sold to the employees of BENGUET and its subsidiaries in accordance with the Employees' Ownership & Incentive Plan already referred to, supra, at P29.00 per share plus transaction costs. The rest of the purchased stock, numbering 6.5 million shares, would be warehoused, or held in trust for PCGG by BENGUET, to be sold when and as directed by the former. When sold, the proceeds of the 'sale of these 6.5 million shares would be' delivered to the PCGG minus their acquisition cost (to BENGUET) of P29.00 per share (or P188,500,000). The rest of the 16,237,339 shares released from the pledges thereon, numbering 6,737,339 would be held in custodia legis by the PCGG free from liens and encumbrances.
3. The sequestration would be lifted as to the 9.5 million shares subject of the sale, upon their release and transfer to BENGUET by the pledgee banks.
4. Restoration of the status quo ante would take place in the event of a final judgment by a competent court invalidating the sale.

Carrying out this agreement, the PCGG -

1. directed the pledgees (PCIB, PCC and Equitable Bank), to deliver to Benguet Management Corporation the certificates of stock covering the said shares respectively held by x x (them) upon x x receipt from Benguet Management Corporation of the payment of x x (their) respective loans.
2. sequestered 'all assets, properties, records and documents' of both petitioner corporations, and commanded them to 'desist from doing any act, directly or indirectly, which may lead to dissipation, concealment and transfer of the sequestered assets, properties, records and documents, and to disburse funds only to support the routine or day-to-day operations x x and make available all records and documents x x which may be required to achieve the purpose' of the sequestration writ; and
3. supervised, through Commissioner Diaz, the payment by BENGUET to the pledgees of the amounts of their credits and the release and surrender by the latter of all the pledged stock, and received the amount of P11,781,124.84."

Alleging that the PCGG had acted without or in excess of its authority or jurisdiction, or with grave abuse of discretion, when it approved and directed the carrying out of the Contract to Purchase and Sell of September 1, 1986, despite their objection thereto, and despite the fact that the stock could have been sold for a much higher price, Palm Avenue Realty Development Corporation and Palm Avenue Holding Company (PALM AVENUE COMPANIES, for brevity) filed with this Court on November 3, 1986 the Palm Avenue case, praying that the implementation of the Contract to Purchase and Sell of September 1, 1986 approved by the PCGG on October 14, 1986 be adjudged void ab initio.

Pending the resolution of the Palm Avenue case, or on July 31, 1987, the Solicitor General on behalf of the PCGG representing petitioner Republic of the Philippines (PCGG, for brevity) brought an action with the Sandiganbayan against Benjamin Romualdez, among others, for forfeiture of alleged ill-gotten wealth, including the Benguet Corporation (Common Class A) shares (Rollo, p. 112). Said case was docketed as Civil Case No. 0035. PALM AVENUE COMPANIES, however, were not made party defendants in said case.

This Court, in a decision dated August 31, 1987, dismissed the Palm Avenue case, and upheld the validity of the Contract to Purchase and Sell, along with its implementing Memorandum of Agreement.

On February 8, 1989, PALM AVENUE COMPANIES filed with the respondent court a "Motion to Require PCGG to Account for Cash Assets and to Enjoin Unnecessary Sale of Benguet Shares of Stock" (Rollo, G.R. No. 90667, p. 36).

On June 20, 1989, respondent court promulgated its resolution dated June 16, 1989, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, the 'Motion to Require PCGG to Account for Cash Assets and to Enjoin Unnecessary Sale of Benguet Shares of Stocks' dated February 7, 1989, and filed by Palm Avenue Realty Development Corporation and Palm Avenue Holding Company, Inc., is hereby DENIED for lack of merit.

The plaintiff is hereby ordered to implead the said movants as defendants in the present case within 15 days from receipt hereof." (Ibid., pp. 127-128).

In the same resolution, respondent court declared that all the 16,237,339 shares of stock of Benguet Corporation are still under sequestration (Ibid., pp. 118 and 121).

On July 10, 1989, the PCGG moved for the reconsideration of the aforesaid resolution. It argued that the ownership of 9.5 million shares is no longer in dispute. Hence, only 6,737,339 shares of stock remain under sequestration (Ibid., pp. 129 and 136). PALM AVENUE COMPANIES likewise moved for its partial

reconsideration (Ibid., p. 139).

On September 21, 1989, respondent court promulgated its resolution dated September 18, 1989, the dispositive portion of which reads as follows:

"WHEREFORE, the plaintiff's Motion for Reconsideration dated July 6, 1989, and the Palm Avenue Companies' Motion for Partial Reconsideration dated July 7, 1989, are hereby DENIED for lack of merit.

The order in the Resolution of June 16, 1989, is reiterated that the plaintiff implead the Palm Avenue Realty Development Corporation and Palm Avenue Holding Company, Inc. as defendants in this case within fifteen (15) days from receipt hereof." (Ibid., p. 175).

Hence, the instant petition for certiorari.

In G.R. No. 91655 -

The facts, as gathered from the records, are as follows:

On July 8, 1988, Rosario M.B. Olivares (Olivares, for brevity), one of the defendants in Civil Case No. 0035 pending before the respondent court, filed with the latter an "Urgent Motion to Require PCGG to Render Report and Accounting of Management of Philippine Journalists, Inc." (Rollo, G.R. No. 91655, p. 28), to which the Solicitor General on behalf of the PCGG representing the Republic of the Philippines filed a verified opposition (Ibid., p. 66).

On October 24, 1988, respondent court promulgated its resolution dated October 21, 1988, the dispositive portion of which reads as follows:

"WHEREFORE, the motion is hereby granted in so far as its prayer for an accounting and/or financial report on the fiscal management of the PJI to be made by the PCGG is concerned.

The PCGG is hereby ordered to submit an accounting and/or financial report on the Phil. Journalists Inc. to this Court, furnishing a copy thereof to defendant movant and to all the stockholders of the same within thirty (30) days from receipt hereof." (G.R. No. 91655, pp. 87-88).

On December 1, 1988, in compliance with the foregoing resolution, the PCGG submitted to the respondent court copies of the audited financial statements of Philippine Journalists, Inc. (PJI, for brevity) as of September 30 and December 31, 1986 as well as the audited financial statements of PJI as of December 31, 1987, both of which were prepared by Guzman, Bocaling & Co. (Ibid., pp. 89-90).

On December 6, 1988, Olivares filed a manifestation and motion with the respondent court where she alleged that the submission of the said financial statements does not constitute substantial compliance with the resolution dated October 21, 1988, which granted her motion for an accounting and/or financial report on the fiscal management of PJI (Ibid., p. 118). Accordingly, she prayed, among others, that PCGG be ordered to make a more detailed accounting and/or financial report on the inventory of the physical assets of the corporation, the increase in the administrative expenses of the corporation, detailing the expenses incurred, and emoluments given, the PCGG "fiscal agents" (Ibid., p. 126).

On December 14, 1988, the PCGG filed its opposition to the said manifestation and motion. It argued that the granting of Olivares' prayers would be tantamount to reconsideration, settings aside and modification of the final and executory resolution dated October 21, 1988 of the respondent court, which had already been complied with by the PCGG (Ibid., p.129).

On February 7, 1989, respondent court promulgated its resolution, the dispositive portion of which reads:

"Considering the foregoing premises, taken in the light of defendant-movant's admission that she is not moving for a reconsideration of the Resolution of October 21, 1988 but is only interested in plaintiff's full compliance with the spirit and intent of the dispositive portion of said Resolution, and inasmuch as the allegations in the instant 'Manifestation and Motion' are couched in general terms and specific details are missing on the bases of which the Court may take appropriate action on clear-cut and unequivocal issues, consequently, defendant-movant is hereby given thirty (30) days from receipt hereof within which to file the proper pleading specifying the nature of her objections and setting such incident for hearing and consideration to enable the parties concerned to present their refutation." (Ibid., p. 139).

On March 30, 1989, Olivares filed her compliance and motion (Ibid., p. 160), to which the PCGG filed its opposition on April 14, 1989 (Ibid., p. 192).

On October 16, 1989, respondent court promulgated its resolution dated October 13, 1989, the dispositive portion of which reads:

"WHEREFORE, premises considered, and finding merit in defendant Olivares' instant motion, accordingly, this Court grants the prayer for an accounting of PJI's assets and liabilities. Within ten (10) days from receipt hereof, the respondent PCGG, its officers, representatives and agents in PJI are hereby ordered to allow defendant Olivares, through a reputable auditing firm of her choice, to inspect, examine and audit PJI's records and the report thereon, duly certified by such firm, to be submitted to this Court within sixty (60) days from date hereof." (Ibid., p. 208).

On November 3, 1989, the PCGG filed its motion for reconsideration of the foregoing resolution (Ibid., p. 209), to which Olivares filed her opposition on November 28, 1989 (Ibid., p. 218).

On November 6, 1989, Olivares filed a manifestation to the effect that she had already designated Carlos J. Valdez and Company, an auditing firm, to inspect, examine and audit PJI records (Ibid., p. 216).

On December 26, 1989, respondent court promulgated its resolution dated December 11, 1989, denying PCGG's motion for reconsideration (Ibid., p. 231).

Hence, this petition for certiorari and prohibition with prayer for temporary restraining order and preliminary injunction.

In G.R. No. 90667 -

PALM AVENUE COMPANIES filed their comment on December 26, 1989 (Rollo, G.R. No. 90667, p. 179), which was considered by this Court En Banc, in a resolution dated March 15, 1990, as answer to the petition (Rollo, G.R. No. 90667, p. 198). In the same resolution, this Court En Banc gave due course to the petition. On March 8, 1990, the PCGG filed its reply. On March 22, 1990, PALM AVENUE COMPANIES filed their memorandum (Ibid., p. 212). The PCGG, on the other hand, adopted its petition dated October 16, 1989 and the reply to comment dated February 26, 1990 as its memorandum (Ibid., p. 199).

In G.R. No. 91655 -

Olivares filed her comment to the petition on March 7, 1990 (Rollo, G.R. No. 91665, p. 242), to which the PCGG filed its reply on May 18, 1990 (Ibid., p. 296). In a resolution dated June 28, 1990, this Court En Banc gave due course to the petition, and calendared this case for deliberation (Ibid., p. 307). Both parties did not file their respective memoranda. Olivares manifested that the filing of the same is unnecessary under the circumstances (Ibid., p. 304). The PCGG, on the other hand, adopted its petition dated January 12, 1990 as its memorandum.

Parenthetically, in a resolution dated January 17, 1991, this Court En Banc allowed the withdrawal of appearance of the Solicitor General as counsel for the PCGG in G.R. No. 90667 and G.R. No. 91665, among others (Rollo,

G.R. No. 91655, p. 311). The PCGG manifested that it will handle said cases under the charge of Commissioner Maximo A. Maceren and/or any of the following attorneys: Eliseo B. Alampay, Jr., Mario E. Ongkiko, Mario Jalandoni and such other attorneys as it may later authorize (Rollo, G.R. No. 91655, p. 317).

In G.R. No. 90667 -

The main issues in this case are:

1. Whether or not respondent court committed grave abuse of discretion in declaring all the 16,237,339 and not merely 6,737,339, Benguet Corporation shares of stock as still under sequestration and in dispute; and
2. Whether or not respondent court committed grave abuse of discretion in ordering the PCGG to implead PALM AVENUE COMPANIES as defendants in Civil Case No. 0035.

In G.R. No. 91655 -

The main issue to be resolved in this case is whether or not respondent court has jurisdiction over Olivares' motion for an accounting of the sequestered PJI's assets and liabilities through an auditing firm of her choice.

In G.R. No. 90667 -

The main thrust of the PCGG's petition is that when it approved the contract to purchase and sell, executed the implementing memorandum of agreement, and acted pursuant thereto, the PCGG acted both as agent to buy the shares for the petitioner Republic of the Philippines and as sequestrator to preserve the sequestered 16,237,339 Benguet Corporation shares of stock by forestalling the imminent auction sale thereof in satisfaction of the past due obligations secured by their pledge. It acted as sequestrator by maintaining the sequestration of the remaining 6,737,339 Benguet Corporation shares released from the pledge and on the balance of the consideration received by PALM AVENUE COMPANIES for the sale in the amount of P11,781,124.84. It acted as agent to buy the shares for the Republic by borrowing from Benguet Management Corporation (BMC, for brevity) the sum of P275,500,000.00 and purchasing the 9.5 million Benguet Corporation shares at P29.00 a share from PALM AVENUE COMPANIES. Hence, it argued that with the sale, PALM AVENUE COMPANIES voluntarily divested themselves of ownership over the 9.5 million Benguet Corporation shares of stock sold (Rollo, G.R. No. 90667, pp. 23-25).

On the other hand, PALM AVENUE COMPANIES insist that the Supreme Court in Palm Avenue case allowed the disposition of the 9.5 million Benguet shares under the Memorandum of Agreement executed between PCGG and BMC within the context of the power of PCGG as 'conservator' but never decreed that the ownership of the remaining 6.5 million shares after deducting the 3 million shares, was transferred to the government, as now government property (Ibid., p. 228).

As earlier stated, the Contract to Purchase and Sell dated September 1, 1986 between PALM AVENUE COMPANIES and BMC and the Memorandum of Agreement dated October 24, 1986 between the Republic of the Philippines, acting through the PCGG, and BMC were upheld by this Court in the Palm Avenue case as valid and binding. This Court held in said case that: "The Memorandum of Agreement of October 23 (sic), 1986 did nothing more than to recognize and provide for the carrying out of the Contract to Purchase and Sell of September 1, 1986 which the petitioners had voluntarily entered into. Implementation of the Memorandum was in truth substantial implementation of the contract." With this pronouncement, the Contract to Purchase and Sell, together with its implementing Memorandum of Agreement, becomes the law between the parties, and it is well-settled that when the words of a contract are plain and readily understandable, there is no room for construction. As the parties' agreement has been reduced to writing, the rule applies that their agreement is to be considered as containing all such terms and there can be between the parties and their successors-in-interest no evidence of the

terms of the agreement other than the contents of the writing (*Bagadiong v. Vda. de Abundo*, 165 SCRA 459 [1988]; *Dihiansan v. Court of Appeals*, 153 SCRA 712 [1987]).

The Contract to Purchase and Sell paved the way for BMC to purchase the 9.5 million shares in question from PALM AVENUE COMPANIES, subject to the terms and conditions of the said implementing Memorandum of Agreement. The PCGG, in turn, in order to insure the effectivity of the sale to BMC, lifted in the Memorandum of Agreement the sequestration order over the shares in question (*Rollo*, G.R. No. 90667, p. 63). The legal effect of the lifting was to allow the disposition of the shares by PALM AVENUE COMPANIES in accordance with the Memorandum of Agreement and thereby removed any legal impediment to the sale or transfer of title thereto which would have otherwise resulted from the sequestration. Thus, the plain fact is that PALM AVENUE COMPANIES, having sold the shares in question and received valuable consideration therefor consisting of the full payment of their indebtedness to the creditor banks and the P11,781,124.84 turned over to the PCGG, voluntarily divested themselves of ownership over the 9.5 million shares sold.

Moreover, paragraph 3 of the Memorandum of Agreement commands BMC to hold 6.5 million of the shares in question in trust for the benefit of the Republic and shall dispose of the same only in the manner and at such price as PCGG may direct from time to time (*Ibid.*, p. 62). If indeed the shares were considered sequestered, there would be a doubt as to whether the PCGG could, upon its own determination, order the sale of the shares. As stressed by this Court in the case of *Bataan Shipyard & Engineering Co., Inc. v. Presidential Commission on Good Government* (150 SCRA 181 [1987]), "the PCGG cannot exercise acts of dominion over property sequestered, frozen or provisionally taken over, x x x the act of sequestration, freezing or provisional takeover of property does not import or bring about a divestment of title over said property, does not make the PCGG the owner thereof. In relation to the property sequestered, frozen or provisionally taken over, the PCGG is a conservator, not an owner. Therefore, it cannot perform acts of strict ownership, and this is specially true in the situations contemplated by the sequestration rules where, unlike cases of receivership, for example, no court exercises effective supervision or can, upon due application and hearing, grant authority for the performance of acts of dominion." In the *Palm Avenue* case, however, this Court upheld the authority of the PCGG to order the sale of the 6.5 million Benguet shares of stock in accordance with the provisions of the Memorandum of Agreement. Undoubtedly, this can only be done if the shares are not sequestered assets.

In the same paragraph, the Republic is made answerable to BMC for losses or claims which may arise from BMC's sale of the shares upon instruction of the PCGG. That the risk of loss with respect to the shares is to be borne by the PCGG is again inconsistent with the proposition that the shares are still under sequestration.

Under the foregoing circumstances, there is no question that, in declaring all the 16,237,339 Benguet shares of stock as still under sequestration and in dispute, respondent court committed grave abuse of discretion.

Anent the second issue, it is the contention of the PCGG that while PALM AVENUE COMPANIES are still parties-in-interest insofar as the ownership over the remaining 6,737,339 Benguet shares is concerned, PCGG's complaint in Civil Case No. 0035 has pierced their corporate veil and has considered Benjamin (Kokoy) Romualdez and his co-defendants as their true or real owners (*Rollo*, No. 90667, pp. 28-29).

PALM AVENUE COMPANIES' thesis, however, is that they cannot be deprived of their legal personality in the aforementioned case inasmuch as they appear on record as the registered owners of the shares of stock involved in the case at bar (*Ibid.*, pp. 238-239).

Section 2, Rule 3 of the Revised Rules of Court mandates that "every action must be prosecuted and defended in the name of the real party in interest."

In the case of *Samahan ng mga Mangungupahan sa Azcarraga Textile Market, Inc., et al. vs. Court of Appeals* (165 SCRA 598 [1988]), this Court defined the real party-in-interest as "the party who stands to be benefited or injured by the judgment or the party entitled to the avails of the suit. 'Interest' within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest."

In the case at bar, while it is true that PALM AVENUE COMPANIES have already voluntarily divested themselves of the ownership over the 9.5 million shares, the fact remains, as admitted by the PCGG itself, that dispute still subsists on the P11,781,124.84 balance of the consideration for the sale of the 9.5 million shares and on the remaining 6,737,339 Benguet shares redeemed from the pledge, both of which are in custodia legis by the PCGG. Thus, PALM AVENUE COMPANIES are real parties-in-interest in Civil Case No. 0035 pending before the respondent court because they still appear to be the registered owners of the said remaining shares. That Benjamin (Kokoy) Romualdez is considered as their true or real owner is just a claim that still has to be proved in court. Accordingly, respondent court did not commit grave abuse of discretion in ordering PCGG to implead PALM AVENUE COMPANIES as defendants in Civil Case No. 0035.

In G.R. No. 91655 -

It is the contention of the PCGG that the accounting of the sequestered PJI's assets and liabilities through an auditing firm of Olivares' choice is not an incident of Civil Case No. 0035 pending before the respondent court. Since the purpose of the accounting and/or auditing is to verify whether "there had been mismanagement and wanton dissipation of assets of PJI" by the PCGG Fiscal Agents assigned to it, this matter is obviously incidental to the administrative power of supervision and control of the PCGG over its fiscal agents and nominees in the PJI (Rollo, G.R. No. 91655, p. 160). Hence, PCGG argues that respondent court is bereft of jurisdiction over Olivares' motion for an accounting of the sequestered PJI's assets and liabilities through an auditing firm of her choice.

On the other hand, Olivares argued that as respondent court is the agency tasked with the determination of who the actual owner of sequestered assets is, it has the obligation and responsibility to see to it that such sequestered assets are conserved and not dissipated (*Ibid.*, p. 267), and the accounting and auditing prayed for by Olivares and granted by respondent court are aimed at preserving assets thus sequestered and at seeing to it that they are in their original condition when respondent court eventually determines the ownership over these assets (*Ibid.*, p. 268). Olivares, therefore, insisted that the questioned motion lies within the exclusive jurisdiction of the respondent court as an incident to the principal action, i.e., Civil Case No. 0035.

The rule laid down in *PCGG v. Pena* (159 SCRA 556 [1988]) and reiterated in the very recent case of *Republic v. Sandiganbayan*, G.R. No. 88809, July 10, 1991, and its accompanying case, cannot be any clearer, thus:

"Under Section 2 of the President's Executive Order No. 14 issued on May 7, 1987, all cases of the Commission regarding 'the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their close Relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees,' whether civil or criminal, are lodged within the exclusive and original jurisdiction of the Sandiganbayan and all incidents arising from, incidental to, or related to, such cases necessarily fall likewise under the Sandiganbayan's exclusive and original jurisdiction subject to review on certiorari exclusively by the Supreme Court." (Underscoring supplied)

Evidently, the exclusive jurisdiction conferred on the Sandiganbayan extends not only to the principal causes of action but also to all incidents arising from, incidental to, or related to, such cases, which may not be made the subject of separate action or proceeding in another forum (*Soriano III v. Yuzon*, 164 SCRA 226 [1988]).

In the case at bar, respondent court ordered the accounting and auditing of the sequestered assets of PJI "to insure

that no hanky-panky or dubious financial deals have been entered into which might have resulted in dissipation of corporate assets" (Rollo, G.R. No. 91655, p. 208). This is borne by the fact that Olivares' allegations with respect to mismanagement of PJI and wanton dissipation of its assets have not been frontally met, much less denied, by the PCGG (Ibid., p. 206). As the assets of PJI are merely under sequestration and have not as yet been judicially declared as 'ill-gotten wealth', sufficient safeguards should be adopted to prevent them from being unduly dissipated, especially when facts and circumstances are brought out, as in the case at bar, which reflect a prima facie showing of wanton or reckless dissipation thereof (Ibid., p. 207). Inasmuch as these assets are now the object of an action before the Sandiganbayan, hence in custodia legis, it logically follows that the matter of preserving them for the benefit of the party that may finally be adjudged to be the owner thereof is the prerogative of the said court as an incident to its primary responsibility of determining whether or not these assets fall under the category of "ill-gotten wealth." Accordingly, when it ordered that an accounting and audit be conducted on the assets and liabilities of PJI as prayed for by Olivares, respondent court was merely exercising said prerogative, which in no way can be considered as tantamount to grave abuse of discretion.

Anent the allegation of the PCGG that Olivares' failure to submit her motion first to the PCGG and then to the President of the Philippines, if still not satisfied, signifies her lack of cause of action (Ibid., p. 22), respondent court correctly observed:

"Finally, plaintiff appears to have failed to comprehend the true nature of the doctrines of the primary administrative jurisdiction and exhaustion of administrative remedies as explained in PCGG vs. Pena, supra. Therefrom, it can quite readily be seen that said doctrines refer to that particular stage of sequestration proceedings where a writ of sequestration has been issued against a particular individual or firm but before the proper judicial action have (sic) been filed in Court, in accordance with Section 26 of the Transitory Provisions of the 1987 Constitution. In the instant case, it cannot be denied that the issues raised in the basic motion of defendant Olivares are not addressed to the lifting of the writ of sequestration nor does it question the nature or existence of prima facie evidence to justify the issuance of such writ but are based on the admitted fact that since the proper judicial action has already been filed and pending before this Court, any and all incidents relating thereto and over which this Court has, admittedly, jurisdiction to inquire into, should be threshed out before it and not thru any administrative proceeding. Otherwise, after the proper judicial action had been filed, this Court would find itself to have abdicated its prerogatives and jurisdiction in favor of the respondent Commission." (Ibid., pp. 233-234).

PREMISES CONSIDERED, (1) In G.R. No. 90667: (a) the resolutions of June 16, 1989 and of September 18, 1989 of respondent court, declaring all the 16,237,339 and not merely 6,737,339 Benguet Corporation shares of stock as still under sequestration are partially NULLIFIED and (b) the order of respondent court directing the impleading of PALM AVENUE COMPANIES as defendants Civil Case No. 0035 is AFFIRMED; and (2) in G.R. No. 91655, the petition is DISMISSED and the resolutions of respondent court dated October 13, 1989 and December 22, 1989 are AFFIRMED.

SO ORDERED.

Narvasa, Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Fernan, C.J., concurring in part and dissenting in part in the light of his dissent in GR No. 97255.

Melencio-Herrera, J., on leave.

Sarmiento, J., retired.

* Penned by Justice Jose S. Balajadia with Justices Romeo M. Escareal and Cipriano A. Del Rosario concurring.

** Penned by Justice Romeo M. Escareal with Justices Jose S. Balajadia and Cipriano A. Del Rosario concurring.

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