

SECOND DIVISION

[G.R. No. 125359, September 04, 2001]

**ROBERTO S. BENEDICTO AND HECTOR T. RIVERA, PETITIONERS,
VS. THE COURT OF APPEALS, HON. GUILLERMO L. LOJA, SR.,
PRESIDING JUDGE, REGIONAL TRIAL COURT OF MANILA,
BRANCH 26, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

Assailed in this petition is the consolidated decision rendered on May 23, 1996, by the Court of Appeals in CA-G.R. SP No. 35928 and CA-G.R. SP No. 35719. CA-G.R. SP No. 35928 had affirmed the order dated September 6, 1994, of the Regional Trial Court, Manila, Branch 26, insofar as it denied petitioners' respective Motions to Quash the Informations in twenty-five (25) criminal cases for violation of Central Bank Circular No. 960. Therein included were informations involving: (a) consolidated Criminal Cases Nos. 91-101879 to 91-101883 filed against Mrs. Imelda R. Marcos, Roberto S. Benedicto, and Hector T. Rivera; (b) consolidated Criminal Cases Nos. 91-101884 to 91-101892 filed against Mrs. Marcos and Benedicto; and (c) Criminal Cases Nos. 92-101959 to 92-101969 also against Mrs. Marcos and Benedicto. Note, however, that the Court of Appeals already dismissed Criminal Case No. 91-101884.

The factual antecedents of the instant petition are as follows:

On December 27, 1991, Mrs. Imelda Marcos and Messrs. Benedicto and Rivera were indicted for violation of Section 10 of Circular No. 960^[1] in relation to Section 34^[2] of the Central Bank Act (Republic Act No. 265, as amended) in five Informations filed with the Regional Trial Court of Manila. Docketed as Criminal Cases Nos. 91-101879 to 91-101883, the charge sheets alleged that the trio failed to submit reports of their foreign exchange earnings from abroad and/or failed to register with the Foreign Exchange Department of the Central Bank within the period mandated by Circular No. 960. Said Circular prohibited natural and juridical persons from maintaining foreign exchange accounts abroad without prior authorization from the Central Bank.^[3] It also required all residents of the Philippines who habitually earned or received foreign currencies from invisibles, either locally or abroad, to report such earnings or receipts to the Central Bank. Violations of the Circular were punishable as a criminal offense under Section 34 of the Central Bank Act.

That same day, nine additional Informations charging Mrs. Marcos and Benedicto with the same offense, but involving different accounts, were filed with the Manila RTC, which docketed these as Criminal Cases Nos. 91-101884 to 91-101892. The accusatory portion of the charge sheet in Criminal Case No. 91-101888 reads:

That from September 1, 1983 up to 1987, both dates inclusive, and for sometime thereafter, both accused, conspiring and confederating with each other and with the late President Ferdinand E. Marcos, all residents of Manila, Philippines, and within the jurisdiction of this Honorable Court, did then and there wilfully, unlawfully and feloniously fail to submit reports in the prescribed form and/or register with the Foreign Exchange Department of the Central Bank within 90 days from October 21, 1983 as required of them being residents habitually/customarily earning, acquiring or receiving foreign exchange from whatever source or from invisibles locally or from abroad, despite the fact they actually earned interests regularly every six (6) months for the first two years and then quarterly thereafter for their investment of \$50-million, later reduced to \$25-million in December 1985, in Philippine-issued dollar denominated treasury notes with floating rates and in bearer form, in the name of Bank Hofmann, AG, Zurich, Switzerland, for the benefit of Avertina Foundation, their front organization established for economic advancement purposes with secret foreign exchange account Category (Rubric) C.A.R. No. 211 925-02 in Swiss Credit Bank (also known as SKA) in Zurich, Switzerland, which earned, acquired or received for the accused Imelda Romualdez Marcos and her late husband an interest of \$2,267,892 as of December 16, 1985 which was remitted to Bank Hofmann, AG, through Citibank, New York, United States of America, for the credit of said Avertina account on December 19, 1985, aside from the redemption of \$25 million (one-half of the original \$50-M) as of December 16, 1985 and outwardly remitted from the Philippines in the amounts of \$7,495,297.49 and \$17,489,062.50 on December 18, 1985 for further investment outside the Philippines without first complying with the Central Bank reporting/registering requirements.

CONTRARY TO LAW.^[4]

The other charge sheets were similarly worded except the days of the commission of the offenses, the name(s) of the alleged dummy or dummies, the amounts in the foreign exchange accounts maintained, and the names of the foreign banks where such accounts were held by the accused.

On January 3, 1992, eleven more Informations accusing Mrs. Marcos and Benedicto of the same offense, again in relation to different accounts, were filed with the same court, docketed as Criminal Cases Nos. 92-101959 to 92-101969. The Informations were similarly worded as the earlier indictments, save for the details as to the dates of the violations of Circular No. 960, the identities of the dummies used, the balances and sources of the earnings, and the names of the foreign banks where these accounts were maintained.

All of the aforementioned criminal cases were consolidated before Branch 26 of the said trial court.

On the same day that Criminal Cases Nos. 92-101959 to 92-101969 were filed, the Central Bank issued Circular No. 1318^[5] which revised the rules governing non-trade foreign exchange transactions. It took effect on January 20, 1992.

On August 24, 1992, the Central Bank, pursuant to the government's policy of further liberalizing foreign exchange transactions, came out with Circular No. 1353, [6] which amended Circular No. 1318. Circular No. 1353 deleted the requirement of prior Central Bank approval for foreign exchange-funded expenditures obtained from the banking system.

Both of the aforementioned circulars, however, contained a saving clause, excepting from their coverage pending criminal actions involving violations of Circular No. 960 and, in the case of Circular No. 1353, violations of both Circular No. 960 and Circular No. 1318.

On September 19, 1993, the government allowed petitioners Benedicto and Rivera to return to the Philippines, on condition that they face the various criminal charges instituted against them, including the dollar-salting cases. Petitioners posted bail in the latter cases.

On February 28, 1994, petitioners Benedicto and Rivera were arraigned. Both pleaded not guilty to the charges of violating Central Bank Circular No. 960. Mrs. Marcos had earlier entered a similar plea during her arraignment for the same offense on February 12, 1992.

On August 11, 1994, petitioners moved to quash all the Informations filed against them in Criminal Cases Nos. 91-101879 to 91-101883; 91-101884 to 91-101892, and 91-101959 to 91-101969. Their motion was grounded on lack of jurisdiction, forum shopping, extinction of criminal liability with the repeal of Circular No. 960, prescription, exemption from the Central Bank's reporting requirement, and the grant of absolute immunity as a result of a compromise agreement entered into with the government.

On September 6, 1994, the trial court denied petitioners' motion. A similar motion filed on May 23, 1994 by Mrs. Marcos seeking to dismiss the dollar-salting cases against her due to the repeal of Circular No. 960 had earlier been denied by the trial court in its order dated June 9, 1994. Petitioners then filed a motion for reconsideration, but the trial court likewise denied this motion on October 18, 1994.

On November 21, 1994, petitioners moved for leave to file a second motion for reconsideration. The trial court, in its order of November 23, 1994, denied petitioners' motion and set the consolidated cases for trial on January 5, 1995.

Two separate petitions for *certiorari* and prohibition, with similar prayers for temporary restraining orders and/or writs of preliminary injunction, docketed as CA-G.R. SP No. 35719 and CA-G.R. SP No. 35928, were respectively filed by Mrs. Marcos and petitioners with the Court of Appeals. Finding that both cases involved violations of Central Bank Circular No. 960, the appellate court consolidated the two cases.

On May 23, 1996, the Court of Appeals disposed of the consolidated cases as follows:

WHEREFORE, finding no grave abuse of discretion on the part of respondent Judge in denying petitioners' respective Motions to Quash,

except that with respect to Criminal Case No. 91-101884, the instant petitions are hereby DISMISSED for lack of merit. The assailed September 6, 1994 Order, in so far as it denied the Motion to Quash Criminal Case No. 91-101884 is hereby nullified and set aside, and said case is hereby dismissed. Costs against petitioners.

SO ORDERED.^[7]

Dissatisfied with the said decision of the court *a quo*, except with respect to the portion ordering the dismissal of Criminal Case No. 91-101884, petitioners filed the instant petition, attributing the following errors to the appellate court:

THAT THE COURT ERRED IN NOT FINDING THAT THE INFORMATIONS/CASES FILED AGAINST PETITIONERS-APPELLANTS ARE QUASHABLE BASED ON THE FOLLOWING GROUNDS:

- (A) LACK OF JURISDICTION/FORUM SHOPPING/NO VALID PRELIMINARY INVESTIGATION
- (B) EXTINCTION OF CRIMINAL LIABILITY
 - 1) REPEAL OF CB CIRCULAR NO. 960 BY CB CIRCULAR NO. 1353;
 - 2) REPEAL OF R.A. 265 BY R.A. 7653^[8]
- (C) PRESCRIPTION
- (D) EXEMPTION FROM CB REPORTING REQUIREMENT
- (E) GRANT OF ABSOLUTE IMMUNITY.^[9]

Simply stated, the issues for our resolution are:

- (1) Did the Court of Appeals err in denying the Motion to Quash for lack of jurisdiction on the part of the trial court, forum shopping by the prosecution, and absence of a valid preliminary investigation?
- (2) Did the repeal of Central Bank Circular No. 960 and Republic Act No. 265 by Circular No. 1353 and Republic Act No. 7653 respectively, extinguish the criminal liability of petitioners?
- (3) Had the criminal cases in violation of Circular No. 960 already prescribed?
- (4) Were petitioners exempted from the application and coverage of Circular No. 960?
- (5) Were petitioners' alleged violations of Circular No. 960 covered by the absolute immunity granted in the Compromise Agreement of November 3, 1990?

On the *first issue*, petitioners assail the jurisdiction of the Regional Trial Court. They aver that the dollar-salting charges filed against them were violations of the Anti-Graft Law or Republic Act No. 3019, and the Sandiganbayan has original and

exclusive jurisdiction over their cases.

Settled is the rule that the jurisdiction of a court to try a criminal case is determined by the law in force at the time the action is instituted.^[10] The 25 cases were filed in 1991-92. The applicable law on jurisdiction then was Presidential Decree 1606.^[11] Under P.D. No. 1606, offenses punishable by imprisonment of not more than six years fall within the jurisdiction of the regular trial courts, not the Sandiganbayan.^[12]

In the instant case, all the Informations are for violations of Circular No. 960 in relation to Section 34 of the Central Bank Act and not, as petitioners insist, for transgressions of Republic Act No. 3019. Pursuant to Section 34 of Republic Act No. 265, violations of Circular No. 960 are punishable by imprisonment of not more than five years and a fine of not more than P20,000.00. Since under P.D. No. 1606 the Sandiganbayan has no jurisdiction to try criminal cases where the imposable penalty is less than six years of imprisonment, the cases against petitioners for violations of Circular No. 960 are, therefore, cognizable by the trial court. No error may thus be charged to the Court of Appeals when it held that the RTC of Manila had jurisdiction to hear and try the dollar-salting cases.

Still on the *first issue*, petitioners next contend that the filing of the cases for violations of Circular No. 960 before the RTC of Manila constitutes forum shopping. Petitioners argue that the prosecution, in an attempt to seek a favorable verdict from more than one tribunal, filed separate cases involving virtually the same offenses before the regular trial courts and the Sandiganbayan. They fault the prosecution with splitting the cases. Petitioners maintain that while the RTC cases refer only to the failure to report interest earnings on Treasury Notes, the Sandiganbayan cases seek to penalize the act of receiving the same interest earnings on Treasury Notes in violation of the Anti-Graft Law's provisions on prohibited transactions. Petitioners aver that the violation of Circular No. 960 is but an element of the offense of prohibited transactions punished under Republic Act No. 3019 and should, thus, be deemed absorbed by the prohibited transactions cases pending before the Sandiganbayan.

For a charge of forum shopping to prosper, there must exist between an action pending in one court and another action before another court: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.^[13] Here, we find that the single act of receiving unreported interest earnings on Treasury Notes held abroad constitutes an offense against two or more distinct and unrelated laws, Circular No. 960 and R.A. 3019. Said laws define distinct offenses, penalize different acts, and can be applied independently.^[14] Hence, no fault lies at the prosecution's door for having instituted separate cases before separate tribunals involving the same subject matter.

With respect to the RTC cases, the receipt of the interest earnings violate Circular No. 960 in relation to Republic Act No. 265 because the same was unreported to the Central Bank. The act to be penalized here is the failure to report the interest