

SECOND DIVISION

[G.R. No. 123997, January 20, 1999]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN AND BRIG. GEN. PEDRO R. BALBANERO,
RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

This case emphasizes with great force the awesome responsibility of counsel to represent a client's cause with due diligence and zeal which necessarily excludes improvident and unreasonable requests for postponement of hearings that only serve to impede the speedy and inexpensive administration of justice.

The Republic of the Philippines, in this special civil action for certiorari, mandamus and prohibition, assails the Order of the Sandiganbayan, First Division, dated 19 October 1995, in "*Republic of the Philippines v. Brig. Gen. Pedro Balbanero*," Civil Case No. 0053, denying petitioner's oral motion for postponement of the 19 and 20 October 1995 hearings and requiring it instead to submit a written offer of evidence, as well as the Resolution of 3 January 1996 denying consideration thereof. Petitioner therefore prays that it be allowed to present documentary and testimonial evidence in a formal trial and that public respondent be prevented from conducting further proceedings pursuant to its questioned Orders.

Civil Case No. 0053 is an action for forfeiture under RA No. 1379^[1] instituted on 14 October 1988 by the Republic of the Philippines against retired Brig. Gen. Pedro R. Balbanero alleging that the latter acquired funds, real properties and other assets amounting to P10.5 million manifestly out of proportion to his total salary and emoluments as an Army Officer and as income from business and other legitimately acquired properties.

On 22 March 1989 private respondent filed his answer with counterclaim to which the Republic filed a reply with motion to dismiss counterclaim. After the submission by private respondent of documentary evidence and in view of the manifestation of Solicitor Felipe Magat, Colonel Ernesto Punzalan and Captain Samuel Padilla of the AFP Anti-Graft Board representing the Government that P8.4 million of the alleged over P10 million unexplained wealth had been clarified, the Sandiganbayan in its order dated 19 February 1990 required private respondent to prove the legal source of the remaining "P1.3 million." The parties were required to meet to resolve the matter before trial. On the basis of a "Complete Report" dated 2 August 1990 submitted by Capt. Padilla, at the amount of respondent's wealth deemed to be still unexplained dwindled to P165,043.00. Thus the OSG in behalf of petitioner asked that a decision be rendered forfeiting the amount in its favor.

To prove the legal source of the remaining P165,043.00, private respondent

submitted a document titled "Real Estate Mortgage Loan" purporting to show that the amount was the purchase price he received for real estate sold to Ms. Iluminada S. Salvador et al. when he failed to pay his mortgage indebtedness. In his Manifestation and Motion dated 7 December 1990 private respondent moved that the complaint against him be dismissed on the ground that he had explained to the government's satisfaction the legal source of all his alleged unexplained wealth.

In its answer to the foregoing Manifestation and Motion the Presidential Commission on Good Government (PCGG) denied that private respondent had satisfactorily explained the legitimate source of his wealth and added that the "Complete Report" submitted by the AFP Anti-Graft Board was without its approval, hence, it did not bind the Republic.

On 28 June 1991, without resolving private respondent's Manifestation and Motion of 7 December 1990, public respondent Sandiganbayan allowed the Republic to present oral and documentary evidence to support its complaint for forfeiture.

On 7 June 1994 private respondent moved that petitioner be bound by the Solicitor General's previous admission that only P165,043.00 had not been satisfactorily explained, hence, the remaining issue to be resolved by the Sandiganbayan should be limited to the amount. But Sandiganbayan denied the motion. Hence, on 3 May 1995 private respondent elevated the matter to this Court by way of a petition for certiorari, prohibition and mandamus in "*Pedro R. Balbanero v. the Hon. Sandiganbayan and the Republic of the Philippines*," docketed as G.R. No. 119633.

In view of the pendency of his petition, private respondent moved that the hearings on 18, 19, and 20 October 1995 be canceled and that no further schedule be set. Public respondent denied the cancellation unless a restraining order was issued by this Court in G.R. No. 119633, citing petitioner's readiness to present on the scheduled hearings Major Samuel Padilla (earlier referred to as Captain Padilla) who purportedly conducted the audit examination of the accounts of private respondent.

Upon urgent motion dated 5 October 1995 the Sandiganbayan granted private respondent's request for cancellation of the 18 October 1995 hearing on the allegation that his counsel was scheduled to attend an election case before the RTC of Gapan, Nueva Ecija, but stressing that the cancellation was without prejudice to the settings on 19 and 20 October 1995.^[2]

On 19 October 1995 Associate Solicitor Rodolfo Tagapan, Jr., and Assistant Solicitor General Cesario del Rosario manifested during the hearing that they had been relieved from the case and that ASG Romeo C. de la Cruz and Solicitor Karl B. Miranda had been designated in their stead. However, since the latter two were in the United Arab Emirates attending to the case of convicted Filipina overseas contract worker Sarah Balabagan, Associate Solicitor Tagapan asked that the hearing be reset, to which the Sandiganbayan reacted adversely with its now assailed Order of 19 October 1995 which we quote hereunder for a better appreciation of the factual milieu –

When this case was called for hearing x x x respondent appeared x x x while the petitioner Republic appeared through Associate Solicitor Rodolfo Tagapan together with Atty. Cresencio Jaso of the PCGG. Associate Solicitor Tagapan informed the Court that he had been relieved x x x

from this case and in his stead Solicitor Karl B. Miranda had been designated x x x but that Solicitor Miranda was x x x in Abu Dhabi on official mission, while Atty. Jaso x x x informed this Court that this was his first appearance x x x and was, therefore, not ready to be of assistance. Additionally, no witness had appeared allegedly upon advice of Associate Solicitor Tagapan precisely because of this (sic) re-assignments relying on the postponement to be granted by this Court.

x x x Solicitor Rodolfo Reodica had been appearing until suddenly at the hearing on May 10, 1995 Associate Solicitor Tagapan appeared and had expressed his unreadiness to proceed at that time. The petition for postponement was granted x x x over the objection of the respondent, notwithstanding the pendency of a petition for certiorari, prohibition and mandamus already filed by the respondent to dispute a prior denial of his motion to dismiss by reason of x x x the petitioner's earlier repeated failure to proceed x x x said petition x x x now docketed as G.R. No. 119633. On September 22, 1995 x x x Associate Solicitor Tagapan informed the court that he would be ready to present Major Samuel Padilla on October 18, 19 and 20, 1995. Today, the Court is faced with the situation as above stated.

This case had been pending not only for a very long time but despite many false starts from the petitioner. While indeed the court has reacted negatively to the difficult situations created by the assignment of young Solicitors such as Solicitor Reodica now Solicitor Tagapan on short notice, the Court can not accept a rotation of young and inexperienced Solicitors who are uninformed of the details of this case by reason of their assignment on short notice as reasons for postponing this case on top of their informal complaints of lack of cooperation from or coordination with the PCGG much less can the Court accept the last minute substitutions of Solicitors with others who are not in this country.

In view hereof, the petitioner is given ten (10) days from today within which to formally offer whatever evidence exist (sic) on record with the respondent being given a like period to comment thereon and to state his disposition on this matter with respect to the presentation of his own evidence.

The setting for tomorrow is necessarily cancelled under the circumstances.

Petitioner moved that this Order be reconsidered and that it be allowed to present evidence in a formal trial. The motion was denied by public respondent in its assailed Resolution of 3 January 1996 thus –

The 'MOTION FOR RECONSIDERATION' dated 7 December 1995 of the Plaintiff is Denied.

It is true that this Court expressed its impatience and disapproval over the practice of the Office of the Solicitor General of passing on, actually 'dumping' of a certain cases such as these to a succession of young inexperienced lawyers on short notice. This, however, is not cured by