

SECOND DIVISION

[G.R. No. 161602, July 13, 2010]

**ALFREDO T. ROMUALDEZ, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN (THIRD DIVISION) AND THE REPUBLIC OF
THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

ABAD, J.:

This case is about the Ombudsman's authority to conduct preliminary investigation in a forfeiture case where the petitioner allegedly amassed ill-gotten wealth before February 25, 1986.

The Facts and the Case

On March 6, 1996 respondent Republic of the Philippines (Republic) filed an action for the forfeiture of alleged unlawfully acquired property with the Sandiganbayan in Civil Case 0167 against petitioner Alfredo T. Romualdez and his wife Agnes Sison Romualdez as well as against Romson Realty, Inc., R & S Transport, Inc., Fidelity Management, Inc., and Dio Island Resort, Inc. (collectively, the Romualdezes) pursuant to Republic Act (R.A.) 1379.^[1]

On January 16, 2000 the Romualdezes filed a motion to dismiss the action on grounds of a) violation of their right to a speedy disposition of their case; b) lack of jurisdiction of the Sandiganbayan over the action; c) prematurity; d) prescription; and e) *litis pendentia*. On September 11, 2002 the Sandiganbayan denied the motion. It also denied on March 10, 2003 their subsequent motion for reconsideration.

On March 31, 2003 the Romualdezes next filed a motion for preliminary investigation and to suspend proceedings.^[2] They claim that since Civil Case 0167 was a forfeiture proceeding filed under R.A. 1379, the Ombudsman should have first conducted a "previous inquiry similar to preliminary investigations in criminal cases" before the filing of the case pursuant to Section 2 of the law.^[3]

In its **Comment**^[4] on the motion, the Republic pointed out that the Office of the Ombudsman in fact conducted such a preliminary investigation in 1991 in OMB-0-91-0820^[5] and issued on January 22, 1992 a resolution, recommending the endorsement of the matter to the Office of the Solicitor General (OSG) for the filing of the forfeiture case.

On August 13, 2003 the Sandiganbayan issued a resolution,^[6] denying the Romualdezes' March 31, 2003 motion. It also denied by resolution on December 3, 2003 their subsequent motion for reconsideration.^[7] Thus, the Romualdezes filed

the present petition for *certiorari* and prohibition, seeking to annul the Sandiganbayan's rulings and prevent it from further proceeding with Civil Case 0167 until another preliminary investigation is conducted in their case.

The Question Presented

The sole question presented in this case is whether or not the preliminary investigation that the Ombudsman conducted in OMB-0-91-0820 in 1991 satisfied the requirement of the law in forfeiture cases.

The Ruling of the Court

The Romualdezes point out that the Office of the Ombudsman should not have conducted an investigation of their case, since its authority to investigate ill-gotten or unexplained wealth cases pertained only to wealth amassed **after February 25, 1986** and not before that date.^[8] Since the Romualdezes acquired the allegedly ill-gotten wealth involved in their case as early as 1970, then the Ombudsman had no authority to conduct the investigation that it did in OMB-0-91-0820. In the absence of a prior valid preliminary investigation, the forfeiture proceedings in Civil Case 0167 cannot continue.

In addition, the Romualdezes insist that it was improper for the Ombudsman to have conducted its investigation in their absence. The spouses Alfredo and Agnes Romualdez were in the United States when that investigation took place. They were thus denied their right to be heard in that investigation.

But, as the Sandiganbayan correctly pointed out, quoting *Republic v. Sandiganbayan*,^[9] the Ombudsman has under its general investigatory powers the authority to investigate forfeiture cases where the alleged ill-gotten wealth had been amassed before February 25, 1986. Thus:

Nonetheless, while we do not discount the authority of the Ombudsman, we believe and so hold that the exercise of his correlative powers to both investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth is restricted only to cases for the recovery of ill-gotten and/or unexplained wealth which were amassed after February 25, 1986. Prior to said date, the Ombudsman is without authority to *initiate* such forfeiture proceedings. We, however, uphold his authority to *investigate* cases for the forfeiture or recovery of such ill-gotten and/or unexplained wealth amassed even before the aforementioned date, pursuant to his general investigatory power under Section 15(1) of Republic Act No. 6770.^[10]
(Emphasis supplied)

And, although it was the Ombudsman who conducted the preliminary investigation, it was the OSG that instituted the action in Civil Case 0167 in line with the Court's ruling in the above-cited *Republic* and other cases that followed.

The Court cannot also subscribe to the Romualdezes' claim that they are entitled to