

## THIRD DIVISION

[ G.R. No. 159275, August 25, 2010 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HON. SANDIGANBAYAN (SECOND DIVISION), RICARDO C. SILVERIO, FERDINAND E. MARCOS (NOW SUBSTITUTED BY HIS HEIRS), IMELDA R. MARCOS AND PABLO P. CARLOS, JR. (NOW SUBSTITUTED BY HIS HEIRS), RESPONDENTS.**

### DECISION

**VILLARAMA, JR., J.:**

This petition for certiorari seeks to annul and set aside the June 9, 2003 Resolution<sup>[1]</sup> of public respondent Sandiganbayan (Second Division) which denied the motion to reopen for presentation of plaintiff's additional evidence filed by the Republic of the Philippines.

The factual antecedents:

On July 22, 1987, petitioner through the Presidential Commission on Good Government (PCGG), instituted SB Civil Case No. 0011 for reconveyance, reversion, accounting, restitution and damages, entitled "*Republic of the Philippines v. Ferdinand E. Marcos, Imelda R. Marcos, Ricardo C. Silverio and Pablo P. Carlos, Jr.*" Petitioner seeks to recover ill-gotten wealth acquired or accumulated by the said respondents either singly or collectively, and includes charges of misappropriation and theft of public funds; plunder of the nation's wealth; extortion; blackmail; bribery; embezzlement and other acts of corruption; betrayal of public trust; and abuse of power, to the grave and irreparable damage of petitioner.

Private respondents Silverio and Carlos, Jr. were specifically charged with the following acts:

- a) gave to above Defendant spouses improper payments such as kickbacks and/or commissions in hundreds of thousands of US dollars in exchange for an award to Defendant Ricardo C. Silverio of Kawasaki Scrap Loaders and Toyota Rear Dump Trucks, respectively;
- b) received annually, for three consecutive years, special accommodations, privileges and exemptions by the Central Bank in the form of (i) increased dollar import quota allocation for the importation of Toyota vehicles for Delta Motors[, ] Inc., and airconditioning and refrigerating equipment in excess of the limits prescribed under applicable Central Bank Rules and Regulations, and (ii) a more liberal mode of payment (i.e., documents against acceptance (D/A) vs. letter of credit (L/C) arrangement) contrary to Central Bank Rules and Regulations

and to the manifest disadvantage of Plaintiff and the Filipino people;

c) obtained huge amounts in loans, guarantees and other types of credit accommodations under favored and very liberal terms of credit from government financial institution, such as the Philippine National Bank, to finance the establishment, operation and working capital requirements of his various business/financial ventures, more particularly, the Delta Motors Corporation, to the serious detriment of Plaintiff and the Filipino people;

d) was extended preferential status and treatment in the implementation of the Government's Progressive Car Manufacturing Program (PCMP) resulting in (i) unfair advantage to Defendant Ricardo C. Silverio, (ii) unjust and improper discrimination against the other participants in the PCMP, and (iii) the ultimate demise of PCMP, to the grave damage and prejudice of Plaintiff and the Filipino people;

e) obtained from the Central Bank multi-million peso emergency loans as additional capital infusion to Filipinas Bank, a commercial banking institution owned and/or controlled by Defendant Ricardo C. Silverio;

f) acted as dummy, nominee or agent of Defendants Ferdinand E. Marcos and Imelda R. Marcos in several corporations where said Defendants have substantial interests such as the Meralco Securities and the First Philippine Holdings Corporation and, with the active collaboration, knowledge and willing participation of Fe Roa Gimenez and Hector Rivera who served as conduit for the receipt of funds from said corporations. Defendants Fe Roa Gimenez and Hector Rivera are subjects of separate suits.<sup>[2]</sup>

After the presentation of its witnesses Godofredo dela Paz (Bank Officer III, Bangko Sentral ng Pilipinas) and Ma. Lourdes O. Magno (PCGG Librarian), petitioner rested its case. In its Formal Offer of Evidence dated October 18, 2001, petitioner submitted only the following documents:

EXH. A - Resolution of the Supreme Court promulgated on October 26, 1987, in G.R. No. 77645 entitled "Ricardo Silverio, petitioner, versus Presidential Commission on Good Government, respondent."

Purpose: To show that there is a prima facie case against the defendant Ricardo Silverio, i.e., defendant has acquired assets and properties manifestly out of proportion to his usual and normal income.

EXH. B - Memorandum dated April 27, 1987, of Godofredo dela Paz, re: Import Quota Allocations Granted to Delta Motors Corporation (DMC)

EXH. B-1 - Signature of Godofredo dela Paz appearing on page 3 of Exh. B.

Purpose: To show that Delta Motors Corporation, a corporation 96% owned by defendant Ricardo Silverio, was granted exemptions by the Central Bank in the matter of importing motor vehicles and air conditioning and refrigeration equipment because of said defendant's close association with former President Ferdinand Marcos.

EXH. C - A certification dated August 25, 1967, signed by defendant Ricardo Silverio whereby defendant committed himself to pay \$499,500.00 to someone, in consideration of his arrangements for making possible the award to defendant of 1,000 units of Toyota rear dump trucks.

EXH. C-1 - Signature of defendant Ricardo Silverio appearing at the bottom of Exh. C-1.

Purpose: To show that defendant Ricardo Silverio gave to former President Marcos improper payments in exchange for an award to defendant of Toyota rear dump trucks.

EXH. D - A certification dated August 25, 1967, signed by defendant Ricardo Silverio whereby defendant committed himself to pay \$290,000.00 to someone, in consideration of his arrangements for making possible the award to defendant of 200 units Kawasaki Scoop loaders.

EXH. D-1 - Signature of defendant Ricardo Silverio appearing at the bottom of Exh. D.

Purpose: To show that defendant Ricardo Silverio gave to former President Marcos improper payments in exchange for an award to defendant of Kawasaki Scoop loaders.

EXH. E - Letter dated May 10, 1980, of Ricardo Silverio addressed to President Ferdinand E. Marcos.

Purpose: To show that the enterprises ostensibly owned by Ricardo Silverio, e.g. Filipinas Bank and Delta Motors Corp., are beneficially owned and controlled by former President Ferdinand Marcos.<sup>[3]</sup>

Acting on the formal offer of evidence by the petitioner, as well as the comments/oppositions respectively filed by respondents Silverio, Carlos, Jr. and Marcos, public respondent issued a Resolution<sup>[4]</sup> on January 10, 2002 admitting only Exhibit "A" and denying admission of Exhibits "B" to "E" for being mere photocopies and irrelevant to the purpose for which they were offered, and failure to prove the due execution and authenticity of private writings. Nonetheless, the documents not admitted were allowed to remain on the records.

On February 4, 2002, petitioner filed a Motion for Extension of Time to File Motion for Reconsideration,<sup>[5]</sup> expressing its intention to file a Consolidated Motion for

## Reconsideration with Motion to File Supplement to Formal Offer of Evidence.

On February 26, 2002, petitioner filed a Motion to Admit Herein Motion for Reconsideration with Supplement to Formal Offer of Evidence<sup>[6]</sup> setting forth the following arguments: (a) Technical rules should be set aside when necessary to achieve the purposes behind PCGG's creation; (b) The best evidence rule does not apply since the contents of the writings are not in issue; (c) Assuming *arguendo* that the best evidence rule applies, then secondary evidence may be availed of when the original writing itself is unavailable and cannot be produced in court; and (d) Exhibits "B" and "B-1" are admissible because they are relevant in establishing the fact that defendant Silverio was granted accommodations by reason of his close association with former President Marcos.<sup>[7]</sup>

In a Resolution<sup>[8]</sup> dated May 21, 2002, public respondent denied petitioner's Motion to Admit Herein Motion for Reconsideration with Supplement to Formal Offer of Evidence. It held that the petitioner was unable to establish the loss or destruction of the original documents and hence it cannot be permitted to present secondary evidence as required under Rule 130 of the Rules of Court. That the best evidence rule applies in this case is demonstrated by petitioner's own purpose in offering the rejected documentary exhibits for how then can it intend to prove the defendants' close business/personal relationship with defendant Ferdinand E. Marcos without inquiring into the contents thereof. Moreover, citing Section 19 of Rule 132, public respondent declared that the mere fact that the subject documents "form part of the public records of private documents in the possession of PCGG, [which were] required by law to be entered therein," does not necessarily make them public documents; none of the exhibits offered by the petitioner is required by any law to be entered in a public record. As to Exhibits "B" and "B-1", even if properly identified by Godofredo dela Paz, the one (1) who executed the same, still the court rejected these evidence on the ground that the same were mere photocopy and the offeror failed to lay the basis for the introduction of secondary evidence, again in violation of the best evidence rule.<sup>[9]</sup>

On September 25, 2002, petitioner filed a Motion to Reopen Plaintiff's Presentation of Evidence<sup>[10]</sup> stating thus:

7. That on July 11, 2002, while preparing the files of PCGG documentary evidence for computer scanning, PCGG Librarian Ma. Lourdes Magno **discovered the original copies of certain documentary evidence relevant to this case misfiled in a different case folder**, thus, their availability now for presentation. The affidavit of Ma. Lourdes Magno dated September 23, 2002 is hereto attached as Annex "A". Considering the voluminous records and documents involved in the numerous ill-gotten wealth cases initiated by the PCGG, such incident should understandably be unavoidable. It bears emphasis that **these documents were among those enumerated in the Pre-Trial Brief**.

Attached herewith are **certified true copies** of the said documents, the originals of which will be presented in the course of the proceedings, to wit:

(a) Memorandum of Godofredo dela Paz dated 27 April 1987 (Annex "B" hereof) which was marked as plaintiff's Exhibit "B" in its Formal Offer of Evidence;

(b) Delta Motor[s] Corporation stock certificate for 10,000 shares issued to defendant Silverio; (Annex "C" hereof) which was marked as plaintiff's Exhibit "J" in its Pre-Trial Brief;

(c) Philippine American Investments Corporation stock certificate for 10,000 shares issued to Jose P. Madrigal (Annex "D" hereof) which was marked as plaintiff's Exhibit "I" in its Pre-Trial Brief;

(d) Lepanto Consolidated Mining stock certificate for 3,183,750 shares issued to Fairmont Real Estate[, ] Inc. (Annex "E" hereof) which was marked as plaintiff's Exhibit "H" in its Pre-Trial Brief;

(e) Meralco stock certificate for 1,566 shares issued to defendant Silverio (Annex "F" hereof) which was marked as plaintiff's Exhibit "C" in its Pre-Trial Brief;

(f) Meralco stock certificate for 1,175 shares issued to defendant Silverio (Annex "G" hereof) which was marked as plaintiff's Exhibit "D" in its Pre-Trial Brief;

(g) Meralco stock certificate for 1,175 shares issued to defendant Silverio (Annex "H" hereof) which was marked as plaintiff's Exhibit "C" in its Pre-Trial Brief; and

(h) letter of Silverio to former President Ferdinand E. Marcos dated 10 May 1980 (Annex "I" hereof) which was marked as plaintiff's Exhibit "E" in its Formal Offer of Evidence.

Attached also as Annexes are certified photocopies of Silverio's Letter dated 2 January 1974 (Annex "J") and an Insular Minerals Exploration Hinobaan Copper Project Timetable (Annex "K" hereof).

Plaintiff intends to **recall Ma. Lourdes O. Magno as its witness** to testify on the existence of the foregoing documents.

8. Further to prove its case against defendants, plaintiff also intends to present as **additional evidence the relevant contents of the transcript of defendant Silverio's direct testimony in the case of US v. Imelda Marcos and Adnan Kashoggi, before the US District Court, Southern District of New York (SSS87, Cr 0598 [JFK])**, particularly on the following facts:

a. The personal help given by Ferdinand Marcos to defendant Silverio regarding the approval of an SSS loan;