

## SECOND DIVISION

[ G.R. No. 138437, November 14, 2008 ]

**RAMON J. QUISUMBING, PETITIONER, VS. SANDIGANBAYAN  
(FIFTH DIVISION), REPUBLIC OF THE PHILIPPINES AND  
PHILIPPINE JOURNALIST, INC., REPRESENTED BY THE  
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT,  
RESPONDENTS.**

### DECISION

**CARPIO MORALES, J.:**

*Via* petition for certiorari, Ramon J. Quisumbing (petitioner) assails the Sandiganbayan Resolutions of November 13, 1998<sup>[1]</sup> and March 16, 1999<sup>[2]</sup> in Civil Case No. 0172.

The antecedent facts of the case are as follows:

By virtue of a Writ of Sequestration<sup>[3]</sup> dated April 22, 1986 it issued, the Presidential Commission on Good Government (PCGG) filed on July 13, 1987 a complaint before the Sandiganbayan, docketed as Civil Case No. 0035,<sup>[4]</sup> "*Republic v. Benjamin 'Kokoy' Romualdez*," for recovery, conveyance and accounting of various properties and assets of Benjamin Romualdez, deposed President Ferdinand Marcos, former First lady Imelda Romualdez Marcos, and their alleged dummies and cohorts, on the ground that those constitute ill-gotten wealth. Among the properties subject of the complaint are those of the Philippine Journalist Inc. (PJI) including untitled parcels of land measuring around 7, 087 square meters situated in Mabini, Batangas (Mabini lots).

During the pendency of Civil Case No. 0035, the then PCGG-appointed members of the PJI Board of Directors, namely Jaime Cura, Johnny Araneta, Angel Sepidoza and Renato Paras, executed a Contract of Sale<sup>[5]</sup> dated June 5, 1991 and a Deed of Absolute Conveyance<sup>[6]</sup> dated June 25, 1991 covering the Mabini lots in favor of petitioner, acting as trustee of the Doy Development Corporation. The contracts, called management contracts, were deemed confirmed by PJI Board Resolution No. 91-30<sup>[7]</sup> dated July 1, 1991.

The Sandiganbayan, acting on the "Urgent Motion to Enjoin PCGG- Appointed Board of Directors from Effecting Sale of PJI Real Properties" filed by PJI stockholder Rosario Olivares, nullified the management contracts, by Resolution<sup>[8]</sup> of February 25, 1992, on the ground that they were entered into by the abovementioned PJI members of the Board without the Sandiganbayan's prior approval and consent of the PCGG.

Jaime Cura, then President of the PJI who was the signatory to the contracts,

assailed *via* certiorari the Sandiganbayan February 22, 1992 Resolution before this Court in G.R. No. 106209. By Resolution<sup>[9]</sup> of October 5, 1993, this Court sustained the Sandiganbayan, it holding that PJI is a sequestered corporation and all its properties and assets are considered as under *custodia legis*.

PCGG and PJI thereupon filed before the Sandiganbayan a Complaint<sup>[10]</sup> against petitioner and the PCGG-appointed PJI members of the Board, docketed as Civil Case No. 0172, for reconveyance of the Mabini lots, the subject of the present petition.

To the complaint, petitioner filed a Motion to Dismiss on the ground of lack of cause of action on the part of the PCGG and the Republic. Petitioner contended that the Mabini lots were never sequestered nor placed in *custodia legis*, hence, the prior authorization of the Sandiganbayan and the consent of PCGG were not necessary; that the Sequestration Order dated April 22, 1996 covered only the shares of Benjamin Romualdez, his relatives, agents and nominees, and not the assets and properties of PJI which is a corporation having a separate and distinct personality from its stockholders; and that the said Order was issued without proper authority, having been signed by only one Commissioner, in violation of Sec. 3 of the PCGG Rules requiring at least two Commissioners to sign any order.

Petitioner maintained that the Republic has no cause of action as it is not a real party in interest, the Mabini lots being exclusively owned by PJI before they were sold and, therefore, the Republic's interest, at most, would only be that of a stockholder of the PJI.

In its Opposition,<sup>[11]</sup> the Republic maintained that PJI's assets were in *custodia legis* and their disposition required prior approval or confirmation from the Sandiganbayan and the PCGG, following this Court's Resolution sustaining that of the Sandiganbayan that PJI is a sequestered corporation.

Petitioner countered that the Resolutions of the Sandiganbayan and this Court did not bind him because he was not a party to the proceedings therein and that the Resolutions merely assumed, but did not actually find, that the Mabini lots were sequestered.

By Supplemental Motion to Dismiss<sup>[12]</sup> dated September 2, 1998, petitioner reiterated that the Sequestration Order is null and void in view of the lack of signature of a second Commissioner, citing the then recent decision of this Court in *Republic v. Sandiganbayan*.<sup>[13]</sup>

The Republic submitted, however, a certified true copy of a Writ of Sequestration dated February 19, 1987 bearing the signatures of Commissioners Ramon A. Diaz and Raul Daza, and a certified true copy of the Sequestration Order dated April 22, 1986 signed by Commissioners Mary Concepcion Bautista and Ramon A. Diaz.

Petitioner assailed the authenticity of the certified copy of the Sequestration Order which he claimed to be a mere fabrication. And he questioned the Writ of Sequestration on the ground that it did not authorize the sequestration of the Mabini lots, but only the shares of stocks held in the PJI by Benjamin Romualdez and his relatives or assignees.

By Resolution of November 4, 1998, the Sandiganbayan denied petitioner's Motion to Dismiss for lack of merit. It held that assuming that there was "inconsistency" in the reproduction of the Sequestration Order which could affect its authenticity, the same had become immaterial owing to the "recently found Writ of Sequestration dated February 19, 1987" bearing the signatures of two Commissioners, which writ superseded the former to thus cure whatever defect it had.

On the issue of whether the Republic is a real party in interest, the Sandiganbayan held that since PJI is a corporation under sequestration by the PCGG representing the government or the Republic in its efforts to recover ill-gotten properties and assets pertaining to former President Marcos et al., it is the Republic which is the party which stands to be benefited or injured by the outcome of the case.

Petitioner's Motion for Reconsideration having been denied, the present petition was filed. This time, petitioner faults the Sandiganbayan solely for its finding that the Republic is a real party in interest.

In its Comment,<sup>[14]</sup> the Republic, through the Office of the Solicitor General, maintains that the assailed Resolutions denying the motion to dismiss are interlocutory, hence, they cannot be the proper subject of a petition for certiorari.

On the merits, the Republic asserts that it is a real party in interest as it stands to be benefited or injured by the outcome of the case.

In a Supplement<sup>[15]</sup> dated October 22, 2002, petitioner alleges that this Court, in G.R. No. 108552, *"Asset Privatization Trust v. Sandiganbayan (Second Division) and Rosario Olivarez,"*<sup>[16]</sup> had already overturned its ruling in G.R. 106209 that PJI is a sequestered corporation. To petitioner, the Court's ruling in said case validates his position that PJI is not a sequestered corporation.

Still in another Manifestation dated January 13, 2005,<sup>[17]</sup> petitioner invokes the ruling of this Court in G.R. No. 138598, *"Asset Privatization Trust v. Sandiganbayan (5<sup>th</sup> Division ) and Rosario Olivarez,"*<sup>[18]</sup> directing the Asset Privatization Trust (APT) to turn-over the management and control of PJI to its former stockholders upon payment of their outstanding obligations to PJI. And he pleads that this Court take judicial notice of an article<sup>[19]</sup> in the December 22, 2004 issue of the Philippine Daily Inquirer stating that PJI's former stockholders had already deposited a check for P33,364,889.19 with the Sandiganbayan on December 21, 2004 and that the formal turn-over of PJI by the APT to its former stockholders was implemented soon thereafter. Hence, petitioner avers that the Republic, through the APT, has lost all rights or interests it claims to have over the PJI.

Petitioner concludes that these recent developments confirm that the government's ownership and control over PJI was on account of PJI's former stockholders' assignment of the controlling shares of stock to APT as security for PJI's loan obligations to APT.

The Court notes that, indeed, the assailed Resolutions denying petitioner's motion to dismiss are interlocutory, hence, not the proper subject of a petition for certiorari.