

FIRST DIVISION

[G.R. NO. 118661, January 22, 2007]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN (FIRST DIVISION), EDUARDO M. COJUANGCO,
JR., PHILIPPINE COCONUT PRODUCERS FEDERATION, INC.,
MARIA CLARA L. LOBREGAT, AND THE CORPORATE SECRETARY
OF THE SAN MIGUEL CORPORATION, RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

This case revolves around the corporations organized and the investments acquired or funded allegedly from the coconut levy fund (the Fund, hereinafter). While it came from levies on the sale of copra or equivalent coconut products exacted for the most part from coconut farmers, the Fund went or was known under various names, such as Coconut Consumers Development Fund, Coconut Industry Investment Fund and Coconut Industry Stabilization Fund (CISF). The successive establishing legislations and the stated purpose for the exaction accounted for the differing denominations. Through the years, a part of the Fund went to various projects, was converted into different assets or invested. Playing key roles in the collection, administration and/or use of the Fund were the Philippine Coconut Authority (PCA), formerly the Philippine Coconut Administration (PHILCOA), United Coconut Producers Bank (UCPB), and Philippine Coconut Producers Federation, Inc., or the COCOFED. By legal mandate, COCOFED once received allocations from the coconut levy funds to finance its projects. Among the assets allegedly acquired thru the direct or indirect use of the Fund was a block of San Miguel Corporation (SMC) shares of stock.

Opinions had, for some time, been divided as to the nature and ownership of a fund with public roots but with private fruits, so to speak. The Court, however, veritably wrote *finis* to both issues in at least seven (7) ill-gotten cases^[1] decided prior to the filing of the present petition in 1995, and in several more subsequent cases,^[2] notably in *Republic v. Cocofed*^[3] where the Court declared the coconut levy fund as partaking the nature of taxes, hence is not only affected with public interest, but "are in fact *prima facie* public funds."

Consequent to the rulings in the supervening cases adverted to, several sub-issues in the present petition have been rendered moot and academic. Accordingly, the present petition shall be resolved taking into stock and in the light of the relevant findings and holdings in the supervening batch of cases.

In this petition for *certiorari* under Rule 65 of the Rules of Court, the Republic of the Philippines (Republic, for short), represented by the Presidential Commission on Good Government (PCGG), seeks to annul and set aside a portion of the **Order**^[4] **dated September 9, 1994** of the Sandiganbayan (First Division) in its *Civil Case*

No. 0102, a joint petition for approval of a compromise agreement and settlement^[5] interposed by certain corporations involving sequestered SMC shares of stocks.

The factual background:

In 1971, Republic Act (R.A.) No. 6260 was enacted creating the Coconut Investment Company to administer the Coconut Investment Fund (**CIF**), which was to be sourced from a levy of P0.55 on the sale of every 100 kilograms of copra or equivalent coconut product. In the course of implementing R.A. No. 6260, PHILCOA declared **COCOFED** as the recognized national association of coconut producers with the largest membership.^[6]

On June 30, 1973, then President Ferdinand E. Marcos issued Presidential Decree No. (P.D.) 232 creating the **PCA** to take over PHILCOA's powers and functions.^[7]

Then came P.D. 276 establishing the Coconut Consumers Stabilization Fund (**CCSF**) and declaring the proceeds of the CCSF levy as a trust fund.^[8]

From the CCSF was established, pursuant to P.D. 582, another fund, the Coconut Industry Development Fund (**CIDF**).

On December 26, 1974, P.D. 623 went into effect, reducing the numerical composition, i.e., from 11 to 7 members, of the existing PCA's governing board, and thereby strengthening COCOFED by reserving three (3) board seats to those "recommended by [COCOFED]." Also included in the new board structure was one member to be recommended by the owner/operator of the hybrid coconut seed nut farm.

It would appear that in the new 7-man PCA Board initially sat herein respondent Maria Clara L. Lobregat (hereafter "Lobregat"), as COCOFED representative. Sitting as representative of the Bugsuk Hybrid Coconut Seed Nut Farm was herein respondent Eduardo M. Cojuangco, Jr. (hereafter "Cojuangco, Jr.").

At this juncture, it is relevant to mention some incidents referred to or recurring allegations made in several coco levy cases:

1. On May 17, 1975, the COCOFED's Board passed a resolution declaring that "*ownership by the coconut farmers of a commercial bank is a permanent solution to their perennial credit problems*".^[9] As events unfolded, the Board's bank of choice was the First United Bank (hereafter "**FUB**") where Pedro Cojuangco was then the President. The plan then was for PCA to buy Pedro Cojuangco's controlling interest in FUB. However, the sale did not take a direct route from the seller (Pedro) to the buyer (PCA) as it was made to appear that Cojuangco, Jr. had the "*exclusive option*" to acquire Pedro's controlling interest in FUB. Emerging from the shroud over the circuitous maze of transactions are "*two documents*",^[10] the first being a 1975 agreement about what appears to be PCA's buy-out of Cojuangco, Jr.'s option to acquire at least 72.2% of FUB's capital stock. Per Cojuangco, Jr.'s own admission, PCA paid the "entire amount" for the said 72.2 % equity.^[11] The

second document relates to an agreement to acquire a commercial bank for the benefit of coconut farmers.^[12]

2. On May 30, 1975, FUB issued Stock Certificate Nos. 745 and 746, covering 124,080 and 5,880 shares, respectively, in the name of "[PCA] *for the benefit of the coconut farmers of the Philippines.*"^[13] As of the end of the quarter, June 30, 1975, the list of FUB's stockholders included Cojuangco, Jr. with 14,440 shares and PCA with 129,955 shares.^[14]

Consequent to the changes in FUB's corporate identity and purpose, its Articles of Incorporation was amended in July 1975, resulting in the change of name of the bank from FUB to **UCPB**.^[15]

3. Soon after PCA acquired FUB, PD 755 was issued therein directing PCA to use the CCSF and the CIDF to acquire a commercial bank which shall provide intended beneficiaries with "readily available credit facilities at preferential rates." The Decree also authorized PCA to distribute the Bank's shares of stock, free, to the coconut farmers.^[16]

In *Cocofed vs. PCGG*,^[17] we categorically stated that PCA acquired UCPB with the use of the CCSF.

4. To codify the various laws relating to the coconut industry, President Marcos issued PD 961, the **Coconut Industry Code**, which took effect on July 14, 1976, empowering the PCA to collect the Coconut Consumers Stabilization Fund (**CCSF**) levy. Relevant to this case is the Code's provision on "investments", more specifically that portion (a) mandating PCA to ascertain from time to time the "*balance*" or "*surplus*" from the replanting program and other purposes of the Fund, and (b) giving UCPB full power and authority to invest the "*surplus*" in corporations in the coconut and palm oil industry.

On September 3, 1979, then President Marcos issued Letter of Instructions (**LOI**) No. **926**^[18] which, as couched, veritably directed the UCPB to invest, on behalf of coconut farmers, such portion of the Coconut Industry Investment Fund - supposedly created by P.D. 1468 - in coconut oil mills and other private corporations, with the following resulting ownership structure:

Section 2. *Organization of the Cooperative Endeavor.* – The [UCPB], in its capacity as the investment arm of the coconut farmers thru the Coconut Industry Investment Fund (CIIF) ..., is hereby directed to invest, on behalf of the coconut farmers, such portion of the CIIF ... in a private corporation which shall serve as the instrument to pool and coordinate the resources of the coconut farmers and the oil millers in the buying, milling and marketing of copra ... under the following guidelines:

a) The coconut farmers shall own or control at least fifty percent (50%) of the outstanding voting capital stock of the private corporation [acquired] thru the CIIF and/or corporations owned or controlled by the coconut farmers thru the CIIF.... (bracketed words added).

On October 2, 1981, P.D. 1841 was issued virtually declaring COCOFED to be the only recognized association of coconut farmers.^[19] It also created the **CISF**.

Recapitulating, **R.A. No. 6260** or the Coconut Investment Act ^[20] established the CIF. **PD 276** ^[21] established the CCSF. **PD 582** ^[22] established the CIDE. **LOI No. 926** ^[23] mentions about the creation of a Coconut Industry Investment Fund (hereafter "**CIIF**") in P.D. 582 and directs the investment of a portion of the CIIF in private corporations. **P.D. 1841** ^[24] established the CISF.

The focus of this case turns on 1) what the martial law issuances referred to as the bank acquired for the benefit of the coconut farmers, i.e., UCPB; 2) the six (6) corporations UCPB organized and/or invested in using CIIF, known as the "**CIIF Corporations**";^[25] and 3) the fourteen (14) corporations, known as the "**CIIF Holding Companies**," which the CIIF Corporations acquired or organized.^[26]

It appears that on December 15, 1983, the CIIF Holding Companies each acquired, in various lots, shares of the outstanding capital stock of SMC or a total of over **33.1 million** shares (the "subject shares," hereinafter). On the same day, the CIIF Holding Companies signed an *Agreement* placing the subject shares under a Voting Trust Agreement (VTA) in favor of Andres Soriano, Jr., who was later substituted by Cojuangco, Jr., or, upon his written delegation, Andres Jr.'s son, Andres III.^[27]

Upon assuming office as President of the Republic following the glorious 1986 EDSA Revolution, Corazon C. Aquino issued Executive Order (EO) No. 1, series of 1986, creating the PCGG to assist her in the recovery of ill-gotten wealth of then President Marcos, his family, relatives, nominees and/or business associates.

Complementing EO No. 1 was EO No. 2, series of 1986, asserting that ill-gotten assets are *inter alia* in the form of shares of stock acquired through or as result of the improper or illegal use of funds owned by the Government or its agencies/instrumentalities and accordingly may be frozen.

On March 26, 1986, the CIIF Holding Companies sold to Andres Soriano III, "*for himself and as agent of several persons,*" the subject 33.1 million SMC shares for the grand price of P3.31 billion payable in four (4) installments.^[28] On April 1, 1986, buyers Soriano III, et al. (hereafter the "**SMC group**") paid the initial P500 million to UCPB, as administrator of the CIIF Holding Companies (hereafter the "**UCPB group**"). The sale was transacted through the stock exchange with the covered shares registered in the name of ANSCOR-HAGEDORN SECURITIES, INC.

On April 7, 1986, the PCGG sequestered the subject 33.1 Million SMC shares, the PCGG noting in its letter to Soriano III ^[29] that said shares came "*from the shareholdings of Mr. Eduardo Cojuangco, Jr. which are listed [as owned by the 14 CIIF Holding Companies]*."

The PCGG subsequently lifted the order of sequestration on SMC's representation that 1.3 million farmers, as owners of the seller corporations, owned the subject shares. However, the sequestration was soon reimposed at the instance of SMC

which, in a complete reversal of its earlier averment, alleged that the same shares were owned and controlled by an “antagonistic block led by E. Cojuangco.”^[30] PCGG would soon after require SMC officers not to book share transfers without its prior written authority.

Due to the sequestration thus effected, the SMC group suspended payment of the balance of the purchase price of the subject shares. In retaliation, the UCPB group rescinded the sale.

On June 2, 1986, the UCPB group filed a complaint with the Regional Trial Court (RTC) of Makati against the SMC group for confirmation of rescission of sale.^[31] The case was eventually raffled to the sala of then Makati RTC Judge Manuel Yuzon of Branch 149.

On June 5, 1986, the SMC group repaired to this Court to challenge the jurisdiction of the Makati RTC. On August 10, 1988, in *Soriano III v. Yuson*,^[32] the Court, on the ground that primary jurisdiction over recovery of ill-gotten wealth cases and all incidents related to such cases pertained to the Sandiganbayan, ordered the dismissal of the rescission case filed in the Makati RTC without prejudice, however, to the ventilation before the graft court of the respective claims of the parties.

On February 2, 1987, the 1987 Constitution took effect, prescribing periods within which to file recovery of ill-gotten wealth cases. Its transitory portion (Article XVIII), insofar as relevant, provides:

Sec. 26. The authority to issue sequestration or freeze orders under Proclamation No. 3 dated March 25, 1986 in relation to the recovery of ill-gotten wealth shall remain operative for not more than eighteen months after the ratification of this Constitution. xxx.

xxx [For sequestration or freeze] orders issued before the ratification of this Constitution, the corresponding judicial action or proceeding shall be filed within six months from its ratification. For those issued after such ratification, the judicial action or proceeding shall be commenced within six months from the issuance thereof.

The sequestration or freeze order is deemed automatically lifted if no judicial action or proceeding is commenced as herein provided.

In an apparent rush to beat the deadline, the PCGG, on July 31, 1987, instituted several ill- gotten or unexplained wealth suits before the Sandiganbayan. Among them was one against former President Marcos and herein respondents Cojuangco, Jr. and Lobregat, et al., docketed as **Civil Case No. 0033**.^[33]

Early 1989 developments saw the SMC and UCPB groups successfully threshing out their dispute over the aborted sale of over 33.1 million SMC shares which have meanwhile yielded dividends and/or been subject to stock splits. But because any settlement required PCGG’s intervention, Soriano III, for SMC, and Ramon Y. Sy, for UCPB, in a joint letter of October 31, 1989, informed the PCGG about a compromise proposal which would have the two groups give PCGG an “arbitration fee” in the form of **5,500,000 SMC shares** to support the comprehensive agrarian reform