

SECOND DIVISION

[G.R. No. 138231, February 21, 2002]

**GREGORIO R. CASTILLO, PETITIONER, VS. SANDIGANBAYAN
AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

BUENA, J.:

This is a petition for certiorari, seeking to annul the Resolutions dated November 24, 1998 and February 18, 1999 of the Sandiganbayan in Civil Case No. 0014, which denied petitioner's motion to dismiss the complaint as against him pursuant to the ruling of this Court in *Regala vs. Sandiganbayan*, 262 SCRA 123.

On July 23, 1987, the Republic of the Philippines filed with the Sandiganbayan a complaint for reconveyance, reversion, accounting, restitution and damages against several persons one of which is petitioner. The case was docketed as Civil Case No. 0014. The allegations pertinent to the petitioner reads:

"10. Defendant GREGORIO R. CASTILLO acted as a dummy, nominee and/or agent of Defendants Ferdinand E. Marcos, Imelda R. Marcos, Modesto Enriquez, Trinidad Diaz-Enriquez, Rebecca Panlilio, Erlinda Enriquez Panlilio and Leandro Enriquez in establishing Hotel properties Inc. in order to acquire beneficial interest and control, and conceal ownership, of Silahis International Hotel. He may be served with summons and other court processes at his last known address at 8th Floor Singapore Airlines Bldg., 138 H.V. de la Costa St., Salcedo Village, Makati, Metro Manila.

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"xxx	xxx	xxx

"15. Defendant spouses Rebecca Panlilio and Erlinda Enriquez-Panlilio, spouses, Modesto Enriquez and Trinidad Diaz-Enriquez, spouses, Leandro Enriquez, Guillermo Gastrock, Ernesto Abalos and Gregorio R. Castillo in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, taking undue advantage of their close relationship with the latter Defendant spouses, in order to enrich themselves at the expense of Plaintiff, devised several schemes and stratagems, as follows:"^[1]

After petitioner moved for a bill of particulars, the Republic filed a Submission attaching a copy of its "Complaint (Expanded per Court-Approved Plaintiff's Manifestation/Motion dated December 8, 1987)" (hereafter the Expanded Complaint). The Republic expanded paragraph 15 (c) of its complaint to read as follows:

"(c) Acquired the controlling interest in the Silahis International Hotel, Inc. by the purchase from the Development Bank of the Philippines (DBP) of seventy-one (71%) per cent of the capital stock of said Silahis International Hotel Inc. and assignment of DBP's various receivable from Silahis worth P187,641,502.76 with the active collaboration, knowledge and willing participation of its Vice-Chairman, Defendant Don M. Ferry who signed all the documents pertaining to such sale and assignment, for the grossly undervalued amount of only P120 Million, to the serious detriment of Plaintiff and the Filipino people. *Defendant Gregorio R. Castillo signed all pertinent documents as attorney-in-fact of the defendants Enriquezes and Panlilios.*"^[2]

On February 29, 1988, petitioner filed his Answer including a counterclaim against the Republic. As an affirmative defense, petitioner alleged in his Answer that:

"3. To the extent that it has been brought against defendant as 'attorney-in-fact of the defendants Enriquezes and Panlilios' who as such 'signed all pertinent documents' for the latter, without any allegations of knowledge of or participation in the wrongful acts within which the other defendants are charged, the complainant, insofar as defendant is concerned, has been brought against one who is not a real-party-interest."^[3]

On October 24, 1992, petitioner died. Subsequently, a motion to dismiss was filed by his counsel on the ground that since the complaint is one for recovery of money, debt or interest thereon, it does not survive the death of petitioner.

On February 19, 1993, the Sandiganbayan promulgated a Resolution denying petitioner's motion to dismiss. It ruled that respondent's cause of action as against petitioner is not abated by the latter's death, the case being not only one for recovery of money, debt or interest thereon, but one for recovery of real and personal property and that the cause of action being inclusive of claim for damages for tortuous misconduct.

On October 15, 1996, petitioner, represented by his heirs, filed another Motion to Dismiss on the ground that the Complaint against him is violative of the lawyer-client confidentiality privilege and must be dismissed pursuant to the Supreme Court's decision in ***Regala vs. Sandiganbayan***, promulgated on September 20, 1996.

The respondent Republic filed an Opposition to the Motion to Dismiss.

On November 26, 1998, the Sandiganbayan promulgated the herein assailed Resolution dated November 24, 1998 denying the motion to dismiss on the ground that petitioner is being sued as principal defendant for being in conspiracy with other defendants in the commission of the acts complained of. The pertinent portions of the said resolution read:

"In the instant case, the cause of action against herein defendant Castillo is clearly spelled out in paragraphs '9' and '15' of the Complaint, to wit:

'9. Defendant GREGORIO R. CASTILLO acted as dummy, nominee and/or agent of Defendants Ferdinand E. Marcos,

Imelda R. Marcos, Modesto Enriquez, Trinidad Diaz-Enriquez, Rebecca Panlilio, Erlinda Enriquez Panlilio and Leandro Enriquez in establishing Hotel Properties Inc. in order to acquire beneficial interest and control, and conceal ownership, of Silahis International Hotel. He may be served with summons and other court processes at his last known address at 8th Floor Singapore Airlines Bldg., 138 H.V. de la Costa St., Salcedo Village, Makati, Metro Manila.

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"15. Defendant spouses Rebecca Panlilio and Erlinda Enriquez-Panlilio, spouses, Modesto Enriquez and Trinidad Diaz-Enriquez, spouses, Leandro Enriquez, Guillermo Gastrock, Ernesto Abalos and Gregorio R. Castillo in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, taking undue advantage of their close relationship with the latter Defendant spouses, in order to enrich themselves at the expense of Plaintiff, devised several schemes and stratagems, as follows:'

"Thus, We subscribe to the plaintiff's opposition that defendant Castillo is being sued as principal defendant for being in conspiracy with the other defendants in the commission of the acts complained of.

"The lawyer-client confidentiality privilege invoked by defendant Castillo in seeking the dismissal of this case is a matter of defense and is premature to be taken into consideration at this stage of the proceedings. In fact this is one of the issues in this case as defendant Castillo in paragraph 3 of his Answer denied the allegations in paragraph 9 of the complaint claiming that he merely acted in his professional capacity as counsel for the defendants Enriquezes and Panlilios.

"The fact that in PCGG's expanded complaint it subsequently alleged with particularity that defendant Castillo's only participation was that he 'signed all pertinent documents as attorney-in-fact of defendant Enriquezes, 'the same did not in any manner change the cause of action against defendant Castillo but merely supplements the same.

"PREMISES CONSIDERED and for utter lack of merit, the instant motion to dismiss is hereby DENIED."^[4]

Petitioner filed a motion for reconsideration but the same was likewise denied.

Hence, the present petition.

Petitioner submits that:

"Respondent court committed grave abuse of discretion in disregarding the ruling of this court in Regala v. Sandiganbayan, et al. and in refusing to dismiss Civil Case No. 0014 as against petitioner."