

## **THIRD DIVISION**

**[ G.R. No. 138598, June 29, 2001 ]**

**ASSET PRIVATIZATION TRUST, PETITIONER, VS.  
SANDIGANBAYAN (5TH DIVISION) AND ROSARIO M.  
B.OLIVARES, RESPONDENTS.**

### **D E C I S I O N**

**PANGANIBAN, J.:**

Law and logic require that a contract be used as basis and foundation for the accurate determination of the extent and the amount of obligations arising therefrom. In the determination of these obligations, the Sandiganbayan - in the present case -- cannot override the valid and existing provisions embodied in the loan documents by supplanting them with extraneous matters, which the parties have not mutually agreed upon.

#### **The Case**

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking to nullify the January 25, 1994<sup>[1]</sup> and the May 6, 1999<sup>[2]</sup> Resolutions of the Sandiganbayan in Civil Case No. 0035. The earlier Resolution disposed as follows:

"WHEREFORE, it is hereby adjudged that the loan obligation of the Philippine Journalists, Inc. (PJI) to Asset Privatization Trust (APT) as of October 30, 1992 was in the total amount of P106,821,912.06, to which the total amount of P120,666,237.00, admitted to have been assigned by PJI to APT, should be applied. APT is hereby ordered to return the overpayment of P13,844,324.94 to PJI and to execute a Deed of Release of the Chattel Mortgage executed by PJI in favor of DBP within thirty (30) days from receipt hereof. The Deed of Assignment of Voting Shares, dated June 17, 1977, and the Supplement to the Deed of Assignment, dated January 16, 1979, are hereby cancelled and declared of no further legal force or effect.

SO ORDERED."

The latter Resolution denied petitioner's motion for reconsideration.

#### **The Facts**

From September 15, 1976 to March 31, 1981, Philippine Journalists, Inc. (PJI) obtained various U.S. dollar-denominated loans and credit accommodation from the Development Bank of the Philippines (DBP). Several written agreements,<sup>[3]</sup>

embodying the manner of payment and other terms and conditions of the loans and credit accommodation, were accordingly entered into by PJI and DBP. The proceeds were purportedly used to purchase publishing equipment and machinery, including a Harris N-1650 web offset press and a high-speed saddle stitch binder. These very same pieces of equipment were used as collateral to secure the loans. In addition, 67 percent of the total capital stock of PJI was ceded to DBP, under certain conditions spelled out in deeds of assignment.<sup>[4]</sup>

From 1979 to February 1986, the PJI, under the control and management of its private shareholders, failed to regularly pay the monthly amortization on the loans granted by DBP.<sup>[5]</sup>

After President Corazon C. Aquino took over the reins of government in 1986, Administrative Order No. 14 was issued. Pursuant thereto, DBP transferred the delinquent PJI account in favor of the government through the Committee on Privatization (COP), which then turned it over in trust to the Asset Privatization Trust (APT), herein petitioner.

Subsequently, on February 19, 1987 and April 28, 1987, the Presidential Commission on Good Government (PCGG) sequestered all the shares of stock of PJI's private shareholders, on the ground that these shares allegedly constituted ill-gotten wealth of Benjamin "Kokoy" Romualdez.

Meantime, as part of its efforts to dispose of the many assets -- including the PJI account -- transferred to it, APT adopted a "Direct Debt Buy Out (DDBO)" settlement scheme. Pursuant thereto, APT Associate Trustee Jose C. Sison wrote the following letter<sup>[6]</sup> to PJI:

"Ref. No. PJI03-01  
November 27, 1989

PHILIPPINE JOURNALISTS, INC.  
The Journal Bldg., Railroad St.,  
Between 19th and 20<sup>th</sup> Sts.  
Port Area, Manila

Attention: Mr. Enrique M. Joaquin  
Chairman of the Board

Gentlemen:

This is to acknowledge receipt of your letter dated 18 November 1989.

Based on the amount of obligation of Philippine Journalists, Inc. transferred to the Asset Privatization Trust (APT), please be informed that the direct-debt-buy-out (DDBO) price as of 31 October 1989 is P78,551,405.93.

We would gladly discuss the details of said amount together with the terms and conditions of a DDBO settlement with you at your

convenience.

Very truly yours

Sgd.

JOSE C. SISON

*Associate Executive Trustee"*

As will be explained later, this letter was not acted upon by PJI. No DDBO settlement was reached by the parties. Neither was such scheme for PJI approved by the Committee on Privatization, as required by law.

Under the management of PCGG nominees, PJI made partial payments of its loans. As of October 31, 1992, the payments, which totaled P98,952,699.12, left a balance of P216,801,156.41 computed in accordance with the loan documents, detailed as follows:<sup>[7]</sup>

I. Unmatured obligations	P 0.0
II. Arrearages:	
a. Principal past due	P 62,450,835.91
b. Advances	6,191,757.62
c. Regular interest	25,422,204.50
d. Additional interest	92,060,678.62
e. Penalty charges	<u>30,675,679.76</u>
Total balance still due	P216,801,156.41

On or about March 23, 1992, Respondent Olivares, as stockholder of PJI, filed with the Sandiganbayan a Motion<sup>[8]</sup> praying "that the PCGG-APT controlled management of PJI be now ordered to withdraw from the cash assets on time deposit the amount of P86,333,031.50 to pay in full the PJI account at APT [and] that upon request of such payment, APT be ordered to execute a release of the chattel mortgage and the cancellation of the assignment of the 67 percent voting rights executed by PJI in favor of DBP/APT."

The Sandiganbayan subsequently set the incident for hearing "to settle once and for all the issue concerning the actual amount of PJI's financial accountability to APT." At the hearing, the parties agreed to submit affidavits and supporting documents, subject to additional direct and cross-examination of the affiants.<sup>[9]</sup> Upon resumption of the hearing at a later date, counsel for APT moved to be allowed to cross-examine the affiants who executed affidavits in support of the Olivares Motion. The Sandiganbayan, however, just declared the incident submitted for resolution, without prejudice to its determination of the imperative necessity of requiring cross-examination of the affiants. It subsequently rendered the assailed Resolutions.

### **Ruling of the Sandiganbayan**

The Sandiganbayan disregarded the computation submitted by PJI and its chairman of the board, Enrique M. Joaquin. This computation, which was based on the loan contracts executed between PJI and DBP, detailed the arrearages of PJI in the total

amount of P216,801,156.41 as of October 31, 1992.

Instead, the Sandiganbayan made its own computation using as basis the direct debt buy out price of P78,551,405.93, which it unilaterally considered as the amount of PJI's obligation to APT as of 31 October 1989. To this amount it added 12 percent annual interest computed up to October 30, 1992. It charged "only the regular rate of interest because there is no factual and legal basis for APT to charge additional interest and surcharges from October 30, 1989 considering that, firstly, at the time said account was transferred to APT, the stockholders of PJI have been deprived of the management of the corporation as it was completely taken over by PCGG even after the sequestration on the shares of the other stockholders had been automatically lifted (as ruled by the Supreme Court in G.R. No. 92376), with the connivance and/or inaction of DBP/APT; secondly, during the time said corporation was under the control of PCGG nominees and appointees, there were reported mismanagement and/or massive dissipation of funds of the corporation which were verified by audit reports of COA and of an independent auditor, Carlos Valdes and Company, which have not been refuted by APT; and thirdly, APT is not a lending institution which should be charging more than the legal rate of interest for accounts transferred to it."

It further ruled as follows:

"No penalties, surcharges or additional interest should be added from October 30, 1989 on the PJI loan stated to be in the amount of P78,551,405.93 inasmuch as the failure to pay said amount at that time was due to the premeditated inaction and/or deliberate refusal to pay by the PCGG-appointed managers, even if there was, admittedly, substantial cash earned by the corporation but which they had, instead, placed in money market placements, purchase of useless equipment and payment of big salaries and allowances to themselves. Penalties, surcharges or additional interest are forms of damages payable by one who had incurred in delay in the performance of its obligation. However, if such delay is due to an unforeseen event or an occurrence which could render it impossible for the debtor to fulfill his obligation in a normal manner, the debtor should not be responsible for any damage caused by such delay.

In this case, any delay in the payment after PCGG took over the corporation, which was even before October 1989, cannot be attributable to the corporation itself or to any of its stockholders. PJI should not, therefore, be charged such penalties, surcharges and additional interest for the inaction and mismanagement of the PCGG-appointed officers and directors."

Hence, this Petition by APT.

### **Issues**

Petitioner interposes the following issues for the resolution of the Court:

"I

Respondent Sandiganbayan acted without jurisdiction in resolving the present incident involving the obligation of PJI to DBP/APT arising from the loan documents executed by PJI in favor of DBP, despite the fact that it is not related or incidental to the ill-gotten wealth case, Civil Case No. 0035.

"II.

Assuming that respondent Sandiganbayan has jurisdiction, it seriously erred in disregarding the loan documents which have not been superseded by any legal act or mutual agreement, and in utilizing the unapproved direct-debt-buy-out price of the PJI account, as basis for determination of the actual obligation of PJI to APT.

"III

Assuming that respondent Sandiganbayan has jurisdiction, it seriously erred in holding that no interest, penalties and surcharges should be imposed on the loan from October 31, 1989 and that only the regular rate of interest should be imposed on the loans from October 30, 1989.

"IV

The Resolutions promulgated on January 25, 1994 and May 6, 1999 of Respondent Sandiganbayan contravene Sec. 4 (B), Proclamation No. 50 which provides for APT's mandate of "generating the maximum cash recovery for the national government."

Simply stated, the issues may be summed up into two: (1) Did the Sandiganbayan have jurisdiction over APT? (2) Did the Sandiganbayan commit reversible error in ignoring the loan documents between APT and PJI and in using the so-called "DDBO" price as its basis in arriving at its ruling?

### **The Court's Ruling**

The Petition<sup>[10]</sup> is meritorious insofar as the second and main issue is concerned.

### **Preliminary Issue:**

### **Sandiganbayan Has Jurisdiction Over APT**

APT contends that the Sandiganbayan has no jurisdiction over it, because it was not a party in the original and amended Complaints in Civil Case No. 0035. Although, admittedly, APT was not a party to the complaints, it nonetheless became a party to the particular incident, subject of this present case. Since it voluntarily entered its appearance and actively participated in the proceedings with respect to such incident, even without being summoned, the Sandiganbayan acquired jurisdiction over it.

In *La Naval Drug Corporation v. Court of Appeals*,<sup>[11]</sup> the Court taught that "lack of