

EN BANC

[G.R. No. 88126, July 12, 1996]

REPUBLIC OF THE PHILIPPINES (PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT

**[PCGG]), PETITIONER, VS. THE HONORABLE SANDIGANBAYAN
(FIRST DIVISION), ALFREDO (BEJO) T. ROMUALDEZ AND DIO
ISLAND RESORT, INC., RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

The main issue raised in this case is: Is a sequestration order prepared, issued and signed by the head of a task force of the PCGG, and not by any two of the Commissioner, valid and legal?

Questioned in this petition for Certiorari, Prohibition and Mandamus are the following Resolutions of the respondent Sandiganbayan:

(i) Resolution promulgated on November 22, 1988^[1] in Civil Case No. 0010 (PCGG Case No. 11) invalidating a sequestration order issued by the head of a PCGG Task Force in Region VIII and ordering the PCGG to return to herein respondent Dio Island Resort, Inc. the latter's property taken by the PCGG agents; and

(ii) Resolution promulgated on April 3, 1989^[2] denying petitioner PCGG's motion for reconsideration.

The Facts

On April 14, 1986, a sequestration order^[3] was issued by Atty. Jose Tan Ramirez, a PCGG representative and head of its task force in Region VIII against Dio Island Resort, Inc. and all its assets and properties. The said order was served upon representatives of respondent corporation on April 15, 1986.

On July 22, 1987, petitioner filed with respondent Court a complaint docketed as Civil Case No. 0010 against Alfredo T. Romualdez, Ferdinand E. Marcos, Imelda R. Marcos and forty six (46) other defendants, for reversion, reconveyance, restitution, accounting and damages, seeking to recover alleged "ill-gotten wealth" acquired and accumulated by said defendants. Although respondent corporation was mentioned and listed in Annex "A" of the aforesaid complaint as among those corporations where defendant Alfredo T. Romualdez purportedly owned shares of stock, it was not impleaded as a party thereto.

In its Manifestation and Motion dated June 10, 1988 filed in the same case,

respondent corporation asked respondent Court to stop the PCGG and its agents from further interfering with and exercising ownership over said resort, and to require the return of its properties and assets covered by said order. It further alleged that "up to the present time, there is no case filed against movant (herein respondent Dio Island Resort, Inc.) before the Sandiganbayan by reason of which, the alleged sequestration order is deemed automatically lifted pursuant to Article XVIII, Section 26 of the Constitution." In the course of the hearing of said motion, the validity of the sequestration order issued by PCGG's representative. Atty. Jose Tan Ramirez, was directly questioned.

Alerted by such challenge, the PCGG, at its Commission Meeting held on June 16, 1988, passed a resolution^[4] "to confirm, ratify and adopt as its own all the Writs of Sequestration issued in the name x x x and under the authority of the Commission and signed by its duly authorized representatives in Region VIII, Messrs. Jose Ramirez and Ben Abella", including the sequestration order over Dio Island Resort, in order "to remove any doubt as to the validity and enforceability" of said writs.

On November 22, 1988, the respondent Court granted respondent corporation's manifestation and motion and issued the first of its assailed Resolutions, holding inter alia that the PCGG had not legally sequestered the assets of respondent corporation because they were seized pursuant to an order issued only by a "duly authorized representative" of the PCGG. Penned by Presiding Justice Francis E. Garchitorena, the said Resolution in its dispositive portion provided:

"WHEREFORE, the plaintiff, particularly the PCGG, is ordered to return to the movant Dio Island Resort, Inc., all of the property, assets, furniture, fixture and equipment which have been taken away from movant by virtue or as a result of the acts of the PCGG's authorized representative and to effect full compliance herewith within thirty (30) days from receipt hereof."

PCGG's Motion for Reconsideration of the abovementioned Resolution was denied by respondent Court in its April 3, 1989 Resolution, where it held that:

"1. DIO ISLAND RESORT, INC., was not sequestered on March 18, 1986 nor at anytime thereafter;

2. The confirmation, ratification and adoption by the PCGG of the "writs of sequestration" issued in its name by its duly authorized representatives Region VIII, Attys. Jose Ramirez and Ben Abella (Annex "1", Opposition to Manifestation and Motion) on June 16, 1988 cannot have the effect of curing the basic infirmities of those acts -- twenty-seven (27) months after the fact, sixteen (16) months after the ratification of the Constitution and eleven months after the suit thereon was filed. Messrs. Ramirez and Abella did not possess the authority to sequester so that there was nothing for the PCGG to confirm or to ratify, much less adopt, with any legal effect.

This Court has said in its original Resolution and it now says so once more: until the plaintiff through the PCGG establishes before the Sandiganbayan by at least prima facie evidence that attachment, receivership or any other provisional remedy is appropriate, no rights can

be exercised by the PCGG over the Dio Island Resorts, Inc., its properties both movable and immovable.

WHEREFORE, plaintiff's Motion for Reconsideration dated December 8, 1988 is DENIED for lack of merit."

Hence, this Petition.

The Issues

Petitioner, in claiming that respondent Court committed grave abuse of discretion amounting to want or excess of jurisdiction, raised issues which can be succinctly summed up as follows:

1. Were Dio Island Resort, Inc. and its *assets validly sequestered?* and
2. Does the Sandiganbayan have jurisdiction over a motion questioning the validity of a "sequestration order" issued by a duly authorized representative of the PCGG?

The Court's Ruling

We affirm the impugned Resolutions *in toto*. The respondent Court acted strictly within the bounds of law and prevailing jurisprudence, and we find nothing in the assailed Resolutions that even remotely might suggest any abuse of discretion.

First Issue: Validity of Sequestration Order

The sequestration order subject of the case below was not issued in accordance with the Rules and Regulations of the PCGG promulgated on April 11, 1986. Sec. 3 of said Rules clearly outlines the requirements for the issuance of a sequestration order, thus:

"Sec. 3. Who may issue. A writ of sequestration or a freeze or hold order may be issued by the Commission upon the authority of at least two Commissioners, based on the affirmation or complaint of an interested party or *motu proprio* when the Commission has reasonable grounds to believe that the issuance thereof is warranted."

The aforequoted provision, couched in clear and simple language, leaves no room for interpretation. On the basis thereof, it is indubitable that under no circumstances can a sequestration or freeze order be validly issued by one not a Commissioner of the PCGG.

The invalidity of the sequestration order was made more apparent by the fact that Atty. Ramirez did not even have any specific authority to act on behalf of the Commission at the time he issued the said sequestration order. Thus, the respondent Court noted:^[5]

"Contrary to plaintiff's representation, nothing exists to support its contention that the Task Force had been given prior authority to place DIO under PCGG control. On the contrary, as the text of the above letters clearly show, Attys. Jose Tan Ramirez and Ben Abella, had acted on broad

and non-specific powers: 'By authority of the commission and the powers vested in it. . . .'" (Italics ours)

Even assuming *arguendo* that Atty. Ramirez had been given prior authority by the PCGG to place Dio Island Resort under sequestration, nevertheless, the sequestration order he issued is still void since PCGG may not delegate its authority to sequester to its representatives and subordinates, and any such delegation is invalid and ineffective.

Under Executive Order Nos. 1 and 2, PCGG is the sole entity primarily charged with the responsibility of recovering ill-gotten wealth. Under Sec. 3 of the Rules it promulgated, the PCGG may issue a writ of sequestration upon the authority of at least two Commissioners "when the Commission has reasonable grounds to believe that the issuance thereof is warranted." The power to sequester, therefore, carries with it the corollary duty to make a preliminary determination of whether there is a reasonable basis for sequestering a property alleged to be ill-gotten. After a careful evaluation of the evidence adduced, the PCGG clearly has to use its own judgment in determining the existence of a *prima facie* case. In *Republic vs. Sandiganbayan*, [6] this Court underscored the indispensability of such *prima facie* finding by the Commission to support a sequestration.

"The issue on the existence of *prima facie* evidence in support of the issuance of a sequestration order has likewise been laid to rest in the BASECO case, in this wise:

'8. *Requisites for Validity*

What is indispensable is that, again as in the case of attachment and receivership, there exist a *prima facie* factual foundation, at least, for the sequestration, freeze or takeover order, and adequate and fair opportunity to contest it and endeavor to cause its negation or nullification.

Both are assured under the executive orders in question and the rules and regulations promulgated by the PCGG.

a. *Prima Facie Evidence as Basis for Orders*

Executive Order No. 14 enjoins that there be 'due regard to the requirements of fairness and due process.' Executive Order No. 2 declares that with respect to claims on allegedly 'ill-gotten' assets and properties, 'it is the position of the new democratic government that President Marcos x x (and other parties affected) be afforded fair opportunity to contest these claims before appropriate Philippine authorities.' Section 7 of the Commission's Rules and Regulations provides that sequestration or freeze (and takeover) orders issue upon the authority of at least two commissioners, *based on the affirmation or complaint of an interested party, or motu proprio when the Commission has reasonable grounds* to believe that the issuance thereof is warranted. A similar requirement is now found in Section 26, Art. XVIII of the 1987 Constitution, which requires that 'a sequestration or freeze order shall be

issued only upon showing of a prima facie case.' (Emphasis in the original text.)"

And as correctly held by respondent Court:[7]

"The enabling Executive Orders of the Commission had granted it the power and imposed upon it the duty to make a preliminary determination and the identification of what these "ill-gotten" and "crony owned" properties. This power was not granted to, and this duty was not imposed upon, the Commission's subordinates or extensions. While subordinate entities, such as a committee or a task force may have been authorized to investigate for, and to report to, the PCGG and may have even actually seized properties which may have been apparent to the task force as having been ill-gotten, the preliminary determination of the character of the property to be 'ill-gotten' remained (with) (and never left) the Commission."

This Court had also ruled in *PCGG vs. Peña*:[8] that the Commission, in the discharge of its vital task "to recover the tremendous wealth plundered from the people by the past regime x x x", was vested with ample powers and authority to sequester or place properties and records under its control, to provisionally take over business enterprises and properties constituting ill-gotten wealth, and to enjoin or restrain the commission of acts by any person that may thwart the efforts of the Commission to carry out its mission. And in order to ascertain facts germane to its objectives, the Commission was likewise granted power to conduct investigations, require submission of evidence by subpoena, administer oaths, punish for contempt, and promulgate rules and regulations. The foregoing powers, functions and duties of the Commission amount to the exercise of quasi-judicial functions, *Peña* declared. The exercise of such functions cannot be delegated by the Commission to its representatives or subordinates or task forces because, as explained in *Villegas vs. Auditor General*:[9]

"x x x As well established is the principle that judicial or quasi-judicial powers may not be delegated. In the absence of constitutional or statutory authority, an administrative officer may not alienate or surrender his discretionary power or powers which require exercise of judgment or depute another for him with respect thereto. For, when a public official is granted discretionary power, it is to be presumed that so much is reposed on his integrity, ability, acumen, judgment. Because he is to look into the facts, weigh them, act upon them, decide on them -- acts that should be entrusted to no other. x x." (Emphasis supplied)

In the instant case, there was clearly no prior determination made by the PCGG of a *prima facie* basis for the sequestration of Dio Island Resort, Inc. Respondent Court found as follows:

"While some agent or agents ("authorized representatives") of the PCGG may have seized the properties in question, they did not do so upon specific determination by the Commission (but, at best, upon the determination of the authorized agents themselves) that the properties sequestered were "ill-gotten". The issue in sequestrations and freeze orders, it must be noted, is not primarily whether a particular property or