REPUBLIC OF THE PHILIPPINES

Sandiganbayan
Quezon City
- - -
FIRST DIVISION

Civil Case No. **0187** June 15, 2011

PKSMMN, ET AL., ETC.,
Plaintiff,
- versus -

EDUARDO M. COJUANGCO, JR., ET AL.,
Defendant.

NOTICE OF
RESOLUTION

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OFFICE OF THE SOLICITOR GENERAL
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Makati City

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DOCKET SECTION
REPORTERS & STATISTICS SECTION
MIS SECTION
Sandiganbayan

S I RS/ MESDAMES:

You are hereby notified by these presents that on the 15th day of June, 2011, ***RESOLUTION*** *was promulgated of the above entitled case, copy of which is attached hereto.*

ESTELA TERESITA C. ROSETE
Division Clerk of Court

IMPORTANT: Notify this office of any change of address.
/kfv061511

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ESTELA TERESITA C. ROSETE
Executive Clerk of Court III
First Division

REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

First Division

PAMBANSANG KOALISYON NG MGA SAMAHANG MAGSASAKA AT MANGGAGAWA SA NIYUGAN, (PKSMMN), ET AL., ETC.,	**Civil Case No. 0187**
Plaintiffs,	Present:
- versus -	DE LA CRUZ, J., Chairperson PONFERRADA, J. LAGOS, JJ.
EDUARDO M. COJUANCO, JR., ET. AL. *Defendants.*	Promulgated on: JUN 15 2011

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RESOLUTION

DE LA CRUZ, J.

This resolves the following:

1. Defendant UCPB's *Motion To Dismiss,* dated May 31, 2001;

2. Defendants Jaka Investments, Inc. (JAKA) and Juan Ponce Enrile's *Motion to Dismiss,* dated June 13, 2001;

3. Defendant ACCRA Investment Corporation (ACCRAIN)'s *Motion to Dismiss,* dated June 27, 2001;

4. Plaintiffs' *Consolidated Opposition to Motions to Dismiss,* dated July 19, 2001;

5. ACCRAIN's *Reply (To Consolidated Opposition To Motions To Dismiss),* dated August 1, 2001; and

6. Defendant UCPB's *Reply to Opposition,* dated August 17, 2001.

On April 10, 2001, plaintiff organizations[1] instituted this complaint as a class suit for, on and in behalf of the coconut farmers and workers all over the country, who reside and work in the coconut farms they own, or those who reside in and till the coconut farms belonging to landowners on a sharing basis (or any other tenancy arrangement prevalent in their respective localities), or those who work on the different coconut farms during harvest time, shifting from farm to farm, including cleaning, planting, harvesting, gathering, husking, copra-making and who are paid a share of the coconut or copra produce. Primarily, they seek the return of the "fruits" *(shareholdings of the individual defendants, their controlled and/or owned entities, the defendant corporations, including their shareholdings in defendant UCPB and the other companies through the Coconut Investment Company [CIC])* of the coconut levy funds which were diverted to defendants and/or to their owned and controlled companies, through maneuvers, misuse and abuse, allegedly committed as follows:

> (i) by enlarging and corrupting the meaning of *"coconut farmers"* by including coconut landowners and coconut planters (who do not till the land themselves), contrary to legislative and agricultural usage of the term, "farmers";

[1] Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan (PKSMMN), Coconut Industry Reform Movement (COIR), Buklod ng Malayang Magbubukid, Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA), Center for Agrarian Reform, Empowerment and Transformation (CARET), Pambansang Katipunan ng mga Samahan sa Kanayunan (PKSK)

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(ii) by misrepresenting defendant COCOFED as the representative of the "coconut farmers" nationwide, when in truth, it has been, from the very beginning, and still is, an organization of and managed by coconut landowners only;

(iii) by misrepresenting that defendants COCOFED, PCA and UCPB had identified no less than 1.4 Million coconut farmers as beneficiaries, when in truth this number, assuming to be correct, is a combination of coconut landowners, coconut planters and some coconut farmers and workers;

(iv) by appropriating for themselves and their chosen beneficiaries, substantial amounts of the coco-levy funds to fund activities or projects which have no relation whatsoever to, nor benefited the coconut farmers, or the coconut industry;

(v) by allowing the individual defendants (and their business associates) to draw from the defendant UCPB and the different companies under the control of the CIC, fantastic salaries, directors fees, bonuses of all sorts, even as the owners of these entities, plaintiffs herein, have not received any dividend;

(vi) by deliberately omitting from the list of the beneficiaries, either through design or palpable negligence, the names of plaintiffs so that the benefits of the coconut levy funds may ultimately go only to the herein defendants and their business associates as follows:

a. they implemented the PCA regulations on "cocofund" receipts arbitrarily so that only landowners and planters will benefit therefrom, except for a small number of coconut farmers and workers, whom they registered for cosmetic purposes;

b. they adopted the same anomalous registration scheme under RA 6260 to determine the beneficiaries of CCSF levy, when the PCA never issued any "receipt" to the coconut farmers in collecting the CCSF levy.

Defendant UCPB moves to dismiss the complaint for the reasons that: (1) plaintiffs lack the capacity to sue; (2) class suit is improper; (3) this Court has no jurisdiction over the subject matter; and (4) plaintiffs' cause of action

has already prescribed. Defendants JAKA and Enrile's motion to dismiss is likewise anchored on this Court's lack of jurisdiction on the subject matter, aside from plaintiffs' failure to pay the docket fees as provided under Section 7 (a), Rule 141 of the Rules of Court. On the other hand, defendant ACCRAIN's motion to dismiss is based on all the grounds put forth by defendants UCPB, and JAKA and Enrile, in addition to the contentions that the certification against forum-shopping of the complaint is fatally defective, and that the complaint failed to state a cause of action.

In their consolidated opposition to the motions to dismiss, plaintiffs assert that this Court has the power to try and decide the instant case; the complaint sufficiently states a cause of action which has not yet prescribed and it has substantially complied with the requirement on non-forum shopping certification; and the correct docket fees could not be determined because the coconut farmers do not know how much exactly is their rightful share from the investments made out of the coco-levy funds because of the machinations of defendants. Yet, even assuming that the docket fees are ascertainable, plaintiffs should be allowed to litigate as indigents.

DISCUSSION/COURT RULING

The Court shall address first the threshold issue of jurisdiction as it would determine this Court's authority to adjudicate and the necessity to decide the rest of the concerns raised by the parties.

Defendant UCPB posits that plaintiffs' cause of action to have UCPB convey to plaintiffs their respective shares in the investments the bank made

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out of the coconut levy funds is outside the jurisdiction of this Court. According to UCPB, under Republic Act 8249, this Court's jurisdiction is limited to (a) "*violations*" of the Anti-graft and Corrupt Practices Act, the Revised Penal Code (certain sections thereof) and RA 1379 which speaks of cases filed in the name of the Republic of the Philippines to forfeit certain property in favor of the State; (b) "*other offenses* and *felonies* whether simple or complexed with other crimes committed by the public officials ... in relation to their office"; and (c) "civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A issued in 1986." UCPB maintains that the complaint neither mentioned violations, offenses or felonies under the Anti-graft and Corrupt Practices Act or the Revised Penal Code, nor does it contain a cause of action that can be characterized as a civil case falling under the said executive orders. In fact, these executive orders refer only to cases filed by the PCGG.

Defendants JAKA and Enrile practically share the view of defendant UCPB. But, in addition, JAKA and Enrile cited jurisprudence, including the cases of *PCGG v. Peña, et. al.*,[2] and *Republic v. Sandiganbayan*,[3] highlighting the jurisdiction of the Sandiganbayan.

JAKA and Enrile point out that while plaintiffs assert that the instant case is related to Civil Case No. 0033-A, it is apparent that the cause of action they pleaded is entirely separate and alien to Civil Case No. 0033-A. Furthermore, they insist that the exclusive jurisdiction of the Sandiganbayan

[2] 159 SCRA 556
[3] 186 SCRA 864

may only be properly invoked if the case is either filed by or against the PCGG. In other words, the PCGG must always be a party to a case.

Defendant ACCRAIN's arguments in its motion to dismiss relative to the issue on this Court's jurisdiction are materially similar to the contentions of the other defendants.

On the other hand, plaintiffs maintain in their *Consolidated Opposition* that the matters raised in the instant complaint are related to those in Civil Case No. 0033-A and, therefore, within the jurisdiction of this Court. The said case which is pending before this Court was filed by the PCGG "for the return and reconveyance to the Republic of the Philippines of the coconut levy funds and property acquired therewith that had been unlawfully appropriated by the defendants therein—including capital stocks in UCPB that said defendants, their lawyers, factotum and business associates were able to acquire by grossly abusing their fiduciary positions and misusing the names and identities of `more than one million coconut farmers'."

Plaintiffs likewise asseverate that in *COCOFED v. PCGG,*[4] the Supreme Court had already left to this Court the resolution of the factual issues with respect to the misuse and plunder of the coconut levy funds. For plaintiffs to claim their rights over the coco-levy funds in another forum would be to sanction split jurisdiction.

In its *Reply* to plaintiffs' consolidated opposition, defendant ACCRAIN refutes that Civil Case No. 0033-A is related to the instant case. It submits

[4] 1780 SCRA 236

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that although Civil Case No. 0033-A seeks among others, the return of the shares of stocks of Cojuangco in UCPB to the Republic, however, ACCRAIN's shares in UCPB were not sequestered or frozen by PCGG. In fact, there is no such allegation in the instant *Complaint* or *Consolidated Opposition.* Also, defendant ACCRAIN reiterates that original and exclusive jurisdiction pertains to this Court only if the PCGG is a party to the case.

DISCUSSION AND RULING

Indeed, the Court has no jurisdiction over this case.

There is no rule in procedural law as basic as the precept that jurisdiction is conferred by law and any judgment, order or resolution issued without it is void and cannot be given any effect. This rule applies even if the issue on jurisdiction was raised for the first time on appeal or even after final judgment.[5]

Section 4 of Republic Act No. 8249, *"An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as amended, Providing Funds Therefor, and for Other Purposes"*, provides:

> SEC. 4. ***Jurisdiction***.—The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> (a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government,

[5] Angelito P. Magno v. People of the Philippines, et al., G.R. No. 171542, April 6, 2011

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whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

xxx xxx xxx

(b) Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

(c) Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

This suit is a civil case for recovery of the adverted shares of plaintiffs in the coconut levy funds from defendants who are alleged to have misappropriated and/or diverted the same for their benefits, and to the prejudice of the coconut farmers who are supposedly the owners of the said funds. Thus, this case does not fall under Section 4 (a) or Section 4 (b) of RA 8249.

At first glance, the complaint could be mistaken to be covered by Section 4(c) of RA 8249, i.e., a civil case "filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986". The subject matter is the coco-levy funds contested to have composed the ill-gotten wealth of the Marcoses and their "close associates". It is of judicial knowledge that these funds are part of the several properties sought by the PCGG to be reconveyed to the Republic in Civil Case No. 0033. In fact, Civil Case No. 0033-A involving the coconut levy funds is still pending before this Court. If jurisdiction over the case is defined by these parameters only, verily then, this Court can assume jurisdiction over this case. However, a judicious assessment of the surrounding circumstances *vis-a-vis* Section (c) of RA

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8249, discloses that indeed this Court is devoid of any power to take cognizance of this case. Said provision of the law speaks of "[c]ivil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986."

Executive Order No. 1 created the Presidential Commission on Good Government (PCGG) primarily to assist the President[6] in recovering the ill-gotten wealth amassed by former President Ferdinand E. Marcos, his immediate family, relatives and close associates both here and abroad.

Executive Order No. 2 refers to "the funds, moneys, assets, and properties illegally acquired or misappropriated by former President Ferdinand E. Marcos, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates business associates, dummies, agents, or nominees". It reiterated the task of the PCGG to regain the aforesaid assets and properties for the Philippine Government, in addition to the power, among others, given to the PCGG to freeze all assets and properties in the Philippines in which former President Marcos and/or his wife, Imelda Marcos, their close relatives, subordinates, business associates, dummies, agents, or nominees have any interest or participation.

Executive Order No. 14 is an order "[d]efining the Jurisdiction Over Cases Involving the Ill-gotten Wealth of Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Members of Their Immediate Family, Close Relatives, Subordinates, Close and/or Business Associates, Dummies, Agents

[6] then President Corazon C. Aquino

and Nominees". It mandated the PCGG to file all cases referred to in Executive Order Nos. 1 and 2, whether criminal or civil, before the Sandiganbayan, which shall have exclusive and original jurisdiction thereof.

Executive Order No. 14-A was issued to further clarify Executive Order No. 14 with respect to the scope and meaning of certain provisions therein. Likewise, it emphasized that Executive Order No. 14 vested in the Sandiganbayan original and exclusive jurisdiction over all criminal and civil suits filed by the PCGG.

From the foregoing executive orders it is deducible that the quest for the recovery and repossession of the ill-gotten wealth was and is the responsibility of the PCGG, regardless of this wealth's original intended beneficiaries. The PCGG was created to pursue the cause of the entire Republic, and not of a single Filipino or a class of Filipinos perceived to have been deprived of the loots of the Marcoses. After all, the orders encompass all ill-gotten wealth of the Marcoses either directly acquired by them or through their close relatives, dummies and business associates, without qualifications. Thus, the criminal and civil cases contemplated by Section (c) of RA 8249 must be those filed by or against the PCGG, and not a dispute between or among private parties. In the present case, it is not sufficient that the subject matter in controversy be the coco-levy funds, to come within the purview of this Court's jurisdiction. It is equally material that it should have been initiated by the PCGG, or at least the PCGG should have been made a party in the case.

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In the case of *PCGG v. Peña*,[7] the Supreme Court underscored the jurisdiction of the Sandiganbayan over cases relative to Executive Order No. 14, thus:

> Under Section 2 of the President's Executive Order No. 14 issued on May 7, 1986, all cases of the Commission regarding "the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their Close Relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees" whether civil or criminal, are lodged within the "exclusive and original jurisdiction of the Sandiganbayan" and all incidents arising from, incidental to, or related to, such cases necessarily fall likewise under the Sandiganbayan's exclusive and original jurisdiction, subject to review on *certiorari* exclusively by the Supreme Court.[8]

While it is observed that the *Peña* case gives a leeway on the jurisdiction of this Court over cases not mainly for recovery of funds, moneys, etc. of the Marcoses, by the permissive phrase *"all incidents arising from, incidental to, or related to such cases,"* however, the PCGG should be a party to the case as could be gleaned from the opening premise "*all cases of the Commission*".

In a number of cases, the Supreme Court took this "permissive phrase" as an exception to the rule that the Sandiganbayan cannot exercise jurisdiction over special civil actions for *certiorari*, prohibition and mandamus. In *Cojuangco v. Sandiganbayan*,[9] the Sandiganbayan's dismissal of a case on the ground of lack of jurisdiction over a petition for *quo warranto* questioning the election of the PCGG nominees to the SMC Board was assailed. In that

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[7] PCGG v. Peña, supra
[8] Ibid., pp. 561-562
[9] 260 SCRA 452

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case, the Supreme Court ruled that the matter was within the jurisdiction of the Sandiganbayan. Thus:

> The instant petition, contrary to the observation in the dissenting opinion, is not just confined to the grievance of petitioners relative to the election of directors and the counting of the votes therein cast but directly challenges the power of the PCGG to vote, or to make use of, the sequestered shares of stock. The very kernel then of the controversy, relating, such as it does, to PCGG's authority over alleged ill-gotten wealth (the sequestered corporate shares), is within the precinct of Section 2 of Executive Order No. 14. The Peña edict—that "those who wish to question or challenge the Commission's acts or orders in such cases must seek recourse in the same court, the Sandiganbayan, which is vested with exclusive and original jurisdiction" — perforce governs.
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> xxx xxx xxx
>
> In fine, while ordinarily the Sandiganbayan cannot exercise jurisdiction over petitions for *quo warranto*, it may, however, do so as an exception when it involves an incident arising from, or related to PCGG cases over alleged "ill-gotten wealth" within the context of Section 2 of Executive Order No. 14.[10]

In the same *Cojuangco* case, reference was made to the case of *PCGG vs. Aquino, Jr. and Marcelo Fiberglass Corporation vs. PCGG.*[11] Thus:

> The rule that the Sandiganbayan cannot exercise jurisdiction over petitions for *quo warranto* is not without exception, a situation which by now should be fairly evident from the Court's pronouncements in a number of cases. In PCGG vs. Peña, et al., the Court has observed:
>
> > "... Under Section 2 of the President's Executive Order No. 14 issued on May 7, 1986, all cases of the Commission regarding 'the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their Close Relatives, Subordinates, Business

[10] Ibid., at pp. 461-462
[11] 163 SCRA 363

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> Associates, Dummies, Agents, or Nominees' whether civil or criminal, are lodged within the 'exclusive and original jurisdiction of the Sandiganbayan' and *all incidents arising from, incidental to, or related to, such cases necessarily fall likewise under the Sandiganbayan's exclusive and original jurisdiction*, subject to review on certiorari exclusively by the Supreme Court." (Emphasis supplied.)

> In the two subsequent consolidated cases of PCGG vs. Aquino, Jr. and Marcelo Fiberglass Corporation vs. PCGG, a petition for certiorari and prohibition with prayer for the issuance of a restraining order and injunction was lodged with the Regional trial Court of Malabon, instead of the Sandiganbayan, against a writ of sequestration issued by the PCGG. Marcelo Fiberglass Corporation argued that Section 2 of Executive Order No. 14 gave to the Sandiganbayan jurisdiction over civil and criminal cases filed by the PCGG but not over special civil actions filed by private parties. In brushing aside the contention, the Court, reiterated the aforequoted portion of the Court's ruling in Peña, and concluded that any attempt to remove special civil actions, similarly involving the powers and functions of the PCGG, from the Sandiganbayan's exclusive jurisdiction would be of no avail.[12]

As a final note in *Cojuangco*, the High Tribunal said that "[t]he reiteration of the Sandiganbayan's jurisdiction over the above cases emphasizes a continuing legislative regard for the special graft court's original jurisdiction over cases that are inextricably linked to the various aforenumbered Executive Orders".[13]

Indeed, in the aforesaid cases, the PCGG was a party. The contending parties were the government and private individuals/corporations. In the case now before us, the parties are private entities. It could not be said too that this case is inextricably linked to Executive Order Nos. 1, 2, 14 and 14-A, as these

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[12] Cojuangco v. Sandiganbayan, supra, at pp. 458-459
[13] Ibid., at p. 463

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First Division
6/15/11

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mandates pertain only to the PCGG as the main entity in the battle of the Republic for the recovery of the ill-gotten wealth of the Marcoses.

As the Court has no jurisdiction over the case, we find it unnecessary to discuss the other issues raised in the motions to dismiss.

WHEREFORE, in light of all the foregoing, the separate motions to dismiss filed by defendants UCPB, Jaka Investments Inc. and Juan Ponce Enrile, and ACCRA Investment Corporation are **GRANTED**. Accordingly, this case is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

EFREN N. DE LA CRUZ
Chairperson/Associate Justice

RODOLFO A. PONFERRADA
Associate Justice

RAFAEL R. LAGOS
Associate Justice